

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)	
)	Investigation Nos.:
MALLEABLE IRON PIPE FITTINGS)	731-TA-1021 (Preliminary)
FROM CHINA)	

Pages: 1 through 123

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THE UNITED STATES INTERNATIONAL TRADE COMMISSION

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) Investigation Nos.:
 MALLEABLE IRON PIPE FITTINGS) 731-TA-1021 (Preliminary)
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Wednesday,
 November 20, 2002

Room No. 111
 U.S. International
 Trade Commission
 500 E Street, S.W.
 Washington, D.C.

The preliminary conference commenced, pursuant to Notice, at 9:30 a.m., at the United States International Trade Commission, LYNN FEATHERSTONE, Director of Investigations, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

Staff:

LYNN FEATHERSTONE, DIRECTOR OF INVESTIGATIONS
 GEORGE DEYMAN, SUPERVISORY INVESTIGATOR
 CHRIS CASSISE, INVESTIGATOR
 MARK REES, ATTORNEY/ADVISOR
 JOSHUA LEVY, ECONOMIST
 CHAND MEHTA, AUDITOR/ACCOUNTANT
 NORMAN VAN TOAI, COMMODITY-INDUSTRY ANALYST

APPEARANCES: (cont'd.)

In Support of the Imposition of Antidumping Duties:

On behalf of Anvil International, Inc.; Ward
Manufacturing, Inc.:

THOMAS E. FISH, President, Anvil International,
Inc.
BOB KIM, Vice-President of Manufacturing, Anvil
International, Inc.
JOHN E. MARTIN, Vice-President, National Accounts,
Anvil International, Inc.
WILLIAM E. STROUSS, Vice-President Finance, Anvil
International, Inc.
TOM GLEASON, Vice-President of Marketing and
Sales, Ward Manufacturing, Inc.
MICHAEL MCINERNEY, Chairman and Chief Executive
Officer, Thomas Somerville Co.
CHARLES KAFENSHTOK, President, Kast Marketing

ROGER B. SCHAGRIN, Esquire
Schagrin Associates
Washington, D.C.

In Opposition to the Imposition of Antidumping Duties:

On behalf of B&K Industries, Inc.:

ROBERT TRIPP, Director of Global Sourcing, B&K
Industries, Inc.

KATHLEEN M. MURPHY, Esquire
JOHN P. SMIRNOW, Esquire
Katten, Muchin, Zavis & Rosenman
Chicago, Illinois

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(9:30 a.m.)

My name is Lynn Featherstone. I'm the Commission's Director of Investigations, and I'll preside at this conference. Among those present from the Commission staff are George Deyman, the supervisory investigator; Chris Cassise, the investigator; Mark Rees, the attorney/advisor; Josh Levy, the economist; and Chand Mehta, the auditor and financial analyst. We will maybe be joined by Norm Van Toai, who is our industry analyst, shortly.

The purpose of this conference is to allow you to present to the Commission through the staff your views with respect to the subject matter of the investigation in order to assist the Commission in determining whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury or that the establishment of an industry in the United States is materially retarded by reason of imports of the merchandise which is the subject of the investigation.

Individuals speaking in support of and in

1 opposition to the petition have each been allocated one hour
2 to present their views. Those in support of the petition
3 will speak first.

4 The chair may ask questions of speakers either
5 during or after their statements. However, no cross-
6 examination by parties or questions to opposing speakers
7 will be permitted. At the conclusion of the statements from
8 both sides, each side will be given ten minutes to rebut any
9 opposing statements, suggest issues on which the Commission
10 should focus in analyzing data received during the course of
11 the investigation and make concluding remarks.

12 This conference is being transcribed, and the
13 transcript will be placed in the public record of the
14 investigation. Accordingly, speakers are reminded not to
15 refer in your remarks to business proprietary information
16 and to speak directly into the microphones. Copies of the
17 transcript may be ordered by filling out a form which is
18 available from the stenographer.

19 You may submit documents or exhibits during the
20 course of your presentations. However, we will not accept
21 materials tendered as business proprietary. All information
22 for which such treatment is requested must be submitted to
23 the Secretary in accordance with Commission Rule 201.6.

24 Any documents that are letter size and copiable
25 will be accepted as conference exhibits and incorporated

1 into the record as an attachment to the transcript. Other
2 documents that you'd like incorporated into the record of
3 the investigation should be submitted as or with your post-
4 conference briefs.

5 Speakers will not be sworn in. However, you are
6 reminded of the applicability of 18 USC 1001 to false or
7 misleading statements and to the fact that the record of
8 this proceeding may be subject to court review if there is
9 an appeal. Finally, we ask that you state your names and
10 affiliations for the record before beginning your
11 presentations.

12 Are there any questions? If not, welcome, Mr.
13 Schagrín. Please proceed.

14 MR. SCHAGRIN: For the record, good morning, Mr.
15 Featherstone and members of the Commission staff. My name
16 is Roger Schagrín, and I'm counsel to Petitioners Anvil
17 International and Ward Manufacturing in this investigation
18 of malleable pipe fitting imports from China.

19 As the Commission concluded in its sunset review
20 of Malleable Pipe Fittings From Brazil, et al. concluded in
21 February, 2000, Anvil and Ward are now really the domestic
22 industry in this product area. An industry that at one time
23 had half a dozen producers now has just essentially two
24 domestic producers.

25 We are pleased today to have for the benefit of

1 the Commission staff and for the Commission a group of
2 experienced witnesses from the industry from both Anvil and
3 Ward, as well as a sales representative and a representative
4 of the wholesale supply business. We believe that with
5 probably over 100 years of experience represented amongst
6 the witness group that this group of witnesses will be able
7 to answer your questions and fill you in on the state of
8 this industry and on the conditions of competition between
9 the imports from China and U.S. producers.

10 Fortunately, because of the recent sunset review,
11 I would not expect us to have to spend much time today on
12 like product issues. The like product in this case is
13 malleable pipe fittings other than groove fittings. Groove
14 fittings have different physical characteristics than other
15 malleable fittings. They're largely made by a different
16 domestic producer, a company called Victolic, and Victolic
17 does not make the subject malleable pipe fittings. There
18 are also very different customer perceptions of this
19 product.

20 Maybe most importantly for the Commission, in
21 three previous investigations and in the recently concluded
22 sunset review, the Commission has found malleable pipe
23 fittings and groove fittings to be separate like products.

24 Imports from China are significant and have
25 increased significantly by both volume and market share.

1 Imports from China increased approximately eight percent
2 from 1999 through 2001, from approximately 12,500 to 13,500
3 tons. This occurred during an obviously weakening economy.

4 In 2002, imports have skyrocketed from 8,400 tons
5 to 12,300 tons through August, a 46 percent increase. We
6 will have September and full three quarter data for both our
7 post-conference brief and, of course, for the Commission's
8 preliminary determination.

9 While market share data is confidential, the
10 Chinese have clearly been gobbling up U.S. market share over
11 the past two years, and at this point they are now clearly
12 the dominant force in the U.S. market for malleable iron
13 pipe fittings. These increased imports have clearly injured
14 the domestic industry.

15 While the industry has reduced capacity
16 significantly over the POI, capacity utilization has still
17 fallen dramatically to dangerously low levels. Production
18 and shipments have plummeted, and inventory as a ratio to
19 shipments increased dramatically between 1999 and 2001 and
20 have remained high in interim 2002.

21 The surge in imports has devastated the employment
22 indicators in this industry. The number of production
23 workers in this industry has fallen by approximately 30
24 percent over the POI. I would urge the Commission to place
25 more emphasis in its statutory analysis of injury and

1 causation on employment indicators in general.

2 Throughout this country, not only in the malleable
3 pipe fittings industry, hundreds of thousands of jobs are
4 being lost to surging imports from China, while virtually no
5 jobs are being created by any increase in exports to China.

6 In order to stay in business, manufacturers are
7 drastically cutting employment. It's the employees of these
8 companies who suffer first as manufacturers are seeing lost
9 volume, losses in production and shipments, reducing work
10 forces, reducing shifts at mills. They're cutting employees
11 in an effort to keep the factories open, and I think it's
12 time for this Commission not to focus only on the
13 profitability of enterprises, but to pay attention to the
14 statutory obligations and employment indicators as an
15 indication of injury where imports are surging are just as
16 important an injury indicator as are financial losses and
17 financial harm to the companies that employ these workers.

18 Given the declining shipments and loss of market
19 share, industry sales revenues fell significantly between
20 1999 and 2001 and then fell further in the interim period.
21 Operating profits fell by double digit percentages in 1999
22 and 2001 and then dropped at an even faster rate in the
23 interim period. Unit operating income dropped precipitously
24 in the interim period and is far lower than any other time
25 over the POI.

1 These Chinese imports so severely undersell
2 domestic product that lowering prices to retain market share
3 is simply out of the question. Without relief, this
4 industry, while still profitable, will have no employees
5 left or foundries continuing to operate in the not too
6 distant future.

7 The continued threat of injury to this industry is
8 both real and imminent. We have had a 45 percent import
9 surge this year alone. We have massive underselling, and
10 that will allow this surge to continue and in fact to
11 accelerate. The European Union and Mexico have already said
12 no to malleable iron threaded fittings from China. Brazil
13 has an investigation underway now. Slowly, but surely, the
14 malleable fittings exports from China are going to be
15 increasingly concentrated on the U.S. market.

16 Tariffs recently imposed of up to 55 percent on
17 imports of non-malleable fittings, which can be made by the
18 same Chinese foundries as those that produce the malleable
19 fittings, will encourage the Chinese foundries to shift
20 production and exports to the United States from non-
21 malleable to malleable fittings.

22 In conclusion, the injury to this industry and its
23 workers is real, and the threat of further injury to this
24 industry and its workers is both real and imminent. I would
25 urge the Commission to make an affirmative preliminary

1 determination of injury.

2 I would like to ask Tom Fish, the president of
3 Anvil International, to present his testimony.

4 MR. FISH: Thank you, Roger. Good morning, Mr.
5 Featherstone, members of the Commission staff. For the
6 record, my name is Tom Fish. I'm president of Anvil
7 International. I'm joined today by several of my key
8 managers, including John Martin, who is the vice-president
9 of national accounts, Bill Strouss, who is vice-president of
10 finance, and Bob Kim, who is vice-president of
11 manufacturing.

12 I have 22 years of experience with iron fittings,
13 having started with Grinnell, which is now known as Anvil
14 International, in 1982. With Anvil, I am responsible for
15 our manufacturing and supply businesses, which package
16 together various products such as iron fittings, nipples,
17 hangers and other assorted products for the sprinkler,
18 mechanical and industrial distributor markets.

19 We act as both a manufacturer and a mass
20 distributor. We have five regional distribution centers
21 nationwide, including a new automated operation that
22 services the western United States. We compete directly
23 with companies such as Natco Norka, Smith Cooper and B&K,
24 which largely offer imported product.

25 Let me tell you about the foundries we had at

1 Anvil. The Columbia, Pennsylvania, foundry goes back to
2 World War II, and our foundry in Statesboro, Georgia, was
3 established in 1973. Statesboro's main product line was
4 non-malleable pipe fittings, and Columbia's main product
5 line was malleable pipe fittings.

6 As the Commission is aware from the Non-Malleable
7 Pipe Fittings case, Anvil sold its Statesboro foundry in
8 August, 2001, and combined the production of non-malleable
9 and malleable pipe fittings in the Columbia, Pennsylvania,
10 foundry. This combination of facilities required an
11 additional capital investment of about \$17 million.

12 This strategic business plan has not met our
13 projections. First, our combination of two different
14 product lines from two foundries into one foundry did reduce
15 our capacity for both non-malleable and malleable pipe
16 fittings. This is reflected in our questionnaire response.

17 Second, our plan of running one foundry at full
18 utilization instead of two foundries at partial utilization
19 was short-lived. Within six months of the consolidation,
20 our utilization rate at the Columbia foundry began falling
21 again because of large volumes of imports of non-malleable
22 and malleable fittings from China.

23 Third, we laid off over 400 workers in Statesboro
24 when we sold the foundry. We had hoped to be able to
25 increase our work force in Columbia by 150 to 200 workers

1 since they would be producing two product lines.
2 Unfortunately, instead of hiring these additional workers we
3 have actually reduced employment in Columbia since 2001.
4 Thus, our aggressive efforts at cost cutting and
5 consolidation have been unsuccessful as we have lost
6 considerable market share to imports from China.

7 As shown in our questionnaire responses, profits
8 on malleable sales are now in significant decline. We
9 believe that the pricing data the Commission will gather
10 will show that Chinese prices are as much as 50 percent
11 below our prices. Because the prices of Chinese malleable
12 fittings are often at our cost of raw materials, much less
13 our cost of production, we cannot lower our prices to
14 compete with the Chinese product or we would be out of
15 business.

16 On the other hand, as we have consistently lost
17 market share to the Chinese we have had to rationalize
18 capacity with consequent negative effects on profits and
19 employment. Mr. Martin will specifically address our loss
20 of market share and pricing issues.

21 As a foundry company, we have no more room for
22 retrenchment. Having gone from two foundries to one
23 foundry, our next line of retreat would be to exit the
24 foundry portion of our business and to focus only on the
25 distribution business.

1 On behalf of the 2,700 Anvil employees, of which
2 approximately 900 work in our Columbia foundry, we ask that
3 this Commission make an affirmative injury determination so
4 that we can keep our Columbia foundry operating and continue
5 to reinvest in the foundry and continue to be in compliance
6 with the very strict environmental standards that we must
7 meet on a daily basis.

8 Thank you very much.

9 MR. SCHAGRIN: Thank you, Mr. Fish.

10 I would like to invite Tom Gleason, the vice-
11 president of marketing and sales of Ward Manufacturing, to
12 present his testimony.

13 MR. GLEASON: Good morning, Mr. Featherstone,
14 members of the Commission staff. For the record, my name is
15 Tom Gleason, and I am vice-president of marketing and sales
16 for Ward Manufacturing in Blossburg, Pennsylvania.

17 I have been in the pipe fitting industry for more
18 than 30 years and have been with Ward Manufacturing since
19 1989. Ward Manufacturing was founded in 1924 in Blossburg,
20 Pennsylvania, as a cast iron fitting producer beginning with
21 the production of non-malleable cast iron fittings. Ward
22 added the manufacturing of malleable iron pipe fittings to
23 its product line in the 1930s. Ward has always been a one
24 foundry operation in Blossburg and previously employed more
25 than 1,000 employees. Hitachi Metals America purchased the

1 company in 1989.

2 Let me explain a little bit about the malleable
3 pipe fitting business and the difference. Malleable iron
4 pipe fittings are made in a foundry by melting steel scrap
5 with coke. Coke is an energy source for cupola melting and
6 at the same time contributes necessary carbon. Alloying
7 materials are added to the liquid iron once the iron is
8 produced.

9 This liquid iron is then transferred into a
10 holding furnace where final adjustments to the iron
11 chemistry are made. The liquid iron is then poured into
12 sand molds that are made into the shape of the fittings
13 desired with the sand cores used to hollow sections of the
14 pipe fittings.

15 After the product is made, it then goes into an
16 annealing oven for heat treatment. In the oven, the raw
17 malleable iron fittings are heated to 1,750 degree
18 Fahrenheit for 18 to 21 hours. This annealing process
19 changes the microstructure of the iron. After annealing,
20 the fittings go to the finishing department for grinding to
21 remove the gates and shot blast to remove the scale from the
22 heat treatment process. The fittings are then either
23 galvanized in a molten zinc bath and threaded or threaded as
24 black, non-galvanized fittings. The fittings are then air
25 tested and packaged for shipment.

1 The difference between non-malleable fittings and
2 malleable fittings is chemistry, microstructure and material
3 strength. The fittings are also different in size or the
4 wall thickness and the weight because malleable iron
5 fittings have different material strength. This, in
6 combination with heat treatment, makes malleable iron pipe
7 fittings a stronger product than non-malleable pipe
8 fittings.

9 Malleable iron pipe fittings are primarily used
10 for natural gas lines, water lines, chemicals, oil lines,
11 oil drilling equipment and mechanical service lines, as well
12 as for furnaces and boilers and other critical applications.
13 As distinct from the non-malleable iron market, which is
14 overwhelmingly a commercial fire protection product, much of
15 the malleable market is used for natural gas meter sets in
16 residential construction.

17 Every time a new house is built that has natural
18 gas lines installed, a boiler for heating or other HVAC
19 systems such as hot water heaters, et cetera, numerous
20 malleable iron fittings are used. That is why the malleable
21 market has been strong. The problem is that the U.S.
22 producer shipments have been weak because of the surge of
23 imports from China.

24 Ward sells malleable pipe fittings through
25 distributors or wholesalers on a nationwide basis. These

1 distributors in turn sell to the plumbers, HVAC contractors,
2 OEM equipment manufacturers or natural gas or water utility
3 companies. The Chinese sell the same distribution system,
4 only they use U.S. agents or brokers to sell these
5 distributors.

6 Over the past year, we have seen a surge of
7 Chinese imports, and we have lost volume at almost all of
8 our major customer accounts. Just as Mr. Martin will
9 testify later for Anvil, Ward also has the equipment for bar
10 coding our fittings for the chain hardware stores that we
11 could also sell.

12 Unfortunately, as our malleable fittings sales and
13 production have declined, we have had to lay off a number of
14 our production workers. In April of 2001, we were forced to
15 lay off 57 workers. In January of 2002, we laid off an
16 additional 38. October 4 of this year we let an additional
17 45 go. Attrition accounted for another 45 positions during
18 this period for a total of 185 jobs. During the same
19 period, 2001 to 2002, we also laid off 20 white collar
20 workers out of our offices. Ward is the only major employer
21 in Blossburg, and we're the largest employer in Tioga
22 County, Pennsylvania. Our layoffs have had a major impact
23 not only on the city, but the county's economy.

24 In addition to the normal capital costs of a
25 significant piece of equipment such as an iron foundry,

1 producers in the United States also face tremendous
2 environmental costs that we do not believe are shouldered by
3 the Chinese foundries.

4 Ward has always had extensive emissions control
5 equipment to comply with the Clean Air Act. However, with
6 recent changes being made to the Clean Air Act, Ward has
7 been told by the Pennsylvania Department of Environmental
8 Protection that we must install a \$6.9 million emission
9 control system for our cupola to continue to be in
10 compliance with the Clean Air Act.

11 This significant capital expenditure and the
12 additional expense of operating the equipment will again
13 increase Ward's cost of doing business. Without the
14 imposition of dumping duties on these Chinese competitors,
15 Ward is greatly concerned about our ability to stay
16 competitive and continue in the pipe fitting business.

17 Therefore, on behalf of Ward's present 805
18 employees in Blossburg, Pennsylvania, I ask the Commission
19 to make an affirmative preliminary injury determination.
20 Thank you very much.

21 MR. SCHAGRIN: Thank you, Mr. Gleason.

22 I would invite John Martin, the vice-president of
23 national accounts of Anvil International, to present his
24 testimony.

25 MR. MARTIN: Good morning, Mr. Featherstone and

1 members of the Commission staff. For the record, my name is
2 John Martin, and I am vice-president of national accounts
3 for Anvil International. I have 35 years' experience in
4 marketing pipe fittings for Anvil and its predecessor,
5 Grinnell Company.

6 All malleable fittings for the United States
7 market are made to the same ASTM specifications and threaded
8 to the same ANSI specifications regardless of where they are
9 produced. Therefore, the products are sold on price,
10 delivery and service.

11 There are several national master distributors and
12 many regional distributors of these products. These
13 distributors sell in turn to the national or regional
14 hardware chains, the plumbing supply wholesale distributors
15 and the industrial pipe valve and fitting wholesale
16 distributors.

17 Anvil and previously Grinnell have historically
18 been a supplier to all of these markets. Not surprisingly,
19 the hardware chains are aggressive, price conscious buyers.
20 As an example, we have lost most of this type of business at
21 Home Depot, and while we are currently a major supplier to
22 other chains such as Ace, United and TruValue, we stand to
23 lose the bulk of their business very soon if conditions with
24 imports don't improve.

25 The only reason we don't presently continue to

1 supply Home Depot and the reason we stand to lose this other
2 business as well is price. It's not an inability to service
3 the business requirements. This is, of course, the same
4 reason we have lost and are losing malleable iron fitting
5 business at the plumbing and pipe valve and fitting
6 wholesale distributors. We're losing that to the Chinese.

7 I think it is also important for the Commission to
8 understand that with the exception of a few strong trade
9 union cities, some distributors sell Chinese and domestic
10 fittings interchangeably. In fact, they may sell Chinese
11 fittings to plumbers or HVAC contractors off the Anvil and
12 Ward list price discounted deeply and tell these customers
13 what a deal they're getting while their profit margins soar.
14 Similarly, when Home Depot buys Chinese product instead of
15 domestic fittings, they don't lower their prices to
16 consumers. They just fatten their profit margins.

17 In my 35 years, I have seen a lot of changes in
18 the pipe fitting business. I have seen the Japanese and the
19 Koreans and the Brazilians enter the market, and I've seen
20 many domestic competitors exit the business permanently, but
21 I have never seen anything like the unbelievably low prices
22 and unlimited availability for Chinese pipe fittings.

23 If nothing is done about these dumped fittings,
24 another segment of our U.S. manufacturing will surely
25 disappear. I ask you to prevent that from occurring. Thank

1 you.

2 MR. SCHAGRIN: I thank you, Mr. Martin.

3 I would now like to invite Chuck Kafenshtok, who
4 is the president of Kast Marketing, to present his
5 testimony.

6 I think as the Commission staff will hear, Mr.
7 Kafenshtok, being a manufacturer's representative, plays an
8 important role in the pipe fittings industry, and he has
9 over 20 years' experience. I think you'll find his
10 knowledge to be very helpful in understanding this industry.

11 Chuck?

12 MR. KAFENSHTOK: Thank you. Good morning, Mr.
13 Featherstone and members of the Commission staff.

14 For the record, my name is Chuck Kafenshtok, and I
15 am president of Kast Marketing. We are a manufacturer's
16 representative serving the plumbing, heating, pipe valve and
17 fitting industries. I have sold malleable pipe fittings for
18 nearly 30 years representing first U-Brand and then Ward for
19 the past 17 years.

20 We sell to wholesale distributors, and our
21 territory for Ward are the states of Illinois and Wisconsin.
22 Not only is this a heavily populated area, but, given the
23 climate, most houses and buildings have gas lines or boilers
24 that require malleable fittings in addition to the plumbing
25 requirements.

1 My sales of Ward's malleable pipe fittings have
2 been devastated over the past two years by increasing
3 imports of Chinese fittings. I could give you dozens of
4 examples, but will give you just a few in the interest of
5 time.

6 At a major plumbing distributor in Illinois, two
7 years ago I sold them \$150,000 worth of malleable pipe
8 fittings. This year I will sell them \$25,000 worth of the
9 same. At another plumbing distributor, my sales have fallen
10 from \$100,000 to less than \$10,000 this year. At an
11 industrial OEM supplier, my sales of malleable fittings have
12 fallen from over \$150,000 three years ago to only \$20,000
13 this year. I will be happy to supply the names of these
14 customers and others, as well as the specific declines in
15 sales, confidentially in our post-hearing brief.

16 It is important for the Commission to understand
17 that my direct importers are sales representatives for
18 importers of Chinese products like Natco Norka, Smith Cooper
19 and B&K. Just as Ward stands behind the products that I
20 sell, Natco Norka, Smith Cooper and B&K stand behind the
21 Chinese products. These sales reps are doing the same thing
22 I do, calling on the same customers and selling the same
23 products with the same delivery schedules, only their prices
24 are 30 to 50 percent below mine.

25 Sixty percent of Kast Marketing's revenues come

1 from our sales of Ward products. Imports of malleable pipe
2 fittings from China have devastated my malleable business
3 over the last few years. I ask this Commission to make an
4 affirmation injury determination so that Ward and I can
5 remain in this business. Thank you.

6 MR. SCHAGRIN: Thank you, Mr. Kafenshtok.

7 Our final witness today, which we're proud to have
8 Mr. McInerney join us, is a representative of the actual
9 customers of this product. I can tell the Commission and
10 the staff that, as you know, we struggle hard in every case
11 and try to bring customers to the table. I can also tell
12 you, having done this for an extended period of time, that
13 it is becoming increasingly difficult.

14 I have talked to probably a dozen customers during
15 the past 21 days trying to get customers to come to this
16 conference. What I heard from most of the potential
17 witnesses was look, we'd like to help you. We like Anvil
18 and Ward. They're good companies. They've been supplying
19 us for a long time, but the future of everything is buying
20 Chinese products. We can't take the chance of coming and
21 appearing publicly in Washington against the Chinese and
22 then have these master distributor importers retaliate
23 against us later on if you lose.

24 We're pleased that Mr. McInerney, who, as you'll
25 hear, is a local customer and has a company that was started

1 in 1861 during the Civil War, would come forward today and
2 support the domestic industry. I hope a year from now we
3 make Mr. McInerney -- when I say we, myself as counsel, this
4 Commission doing the right thing, the Commerce Department
5 doing the right thing -- look patriotic a year from now and
6 not make him look stupid if we lose and then he's put at a
7 disadvantage to all his competitors who will be buying more
8 Chinese product.

9 With that introduction, I'm pleased to invite
10 Michael McInerney, the chairman and chief executive officer
11 of Thomas Somerville Company, to present his testimony.

12 MR. MCINERNEY: Good morning, Mr. Featherstone and
13 members of the Commission staff. For the record, my name is
14 Michael McInerney. I am chairman and CEO of Thomas
15 Somerville Company. We're a wholesale plumbing and heating
16 supply house with 21 outlets in the Washington, D.C.,
17 Maryland, Pennsylvania, Virginia and West Virginia area.
18 The company was founded in 1861, and I have been with the
19 company since 1986.

20 We sell malleable nipples and fittings as part of
21 a package to plumbers and hydronic installers that may
22 include pipe valves, hangers, oilers or other products that
23 are used to install heating systems, gas lines, boilers and
24 water heaters.

25 As recently as 1999, we sold only domestic

1 fittings. However, in recent years we've begun purchasing
2 imports, in particular Chinese fittings, from Natco Norka, a
3 national master distributor of imported Chinese fittings.
4 Our purchases of Chinese fittings have grown in the past
5 year because the price differential of 30 percent plus is
6 too much to forego. These Chinese fittings meet the same
7 ASTM specifications as domestic fittings and thus are
8 completely interchangeable with domestic fittings for our
9 plumbing and hydronic customers. Recently, eight of our 21
10 branches started buying only foreign fittings.

11 When I got into this business in 1986, there were
12 a half dozen U.S. producers. Now there are two, Ward and
13 Anvil. To be honest, I think demand for these products has
14 probably increased over the past 15 years with the growth of
15 construction. However, imports have taken this growth.

16 Thomas Somerville Company, as a major regional
17 distributor, must compete with national distributors who are
18 in our region, such as Ferguson, Hughes and Nolan. If they
19 buy Chinese fittings, we have to also. My perception is
20 that if the government doesn't level the playing field, the
21 last two U.S. producers will also go out of business, and
22 our company's 141 year history of selling domestic products
23 will end.

24 Thank you for this opportunity to testify.

25 MR. SCHAGRIN: Thank you again, Mr. McInerney.

1 Mr. Featherstone, we look at this as a pretty
2 simple, straightforward case. We think the record is pretty
3 clear. The growth in imports has been substantial. The
4 growth in import market share has been substantial. The
5 injury to the industry is clear, and all the threat factors
6 are clear.

7 Therefore, we have nothing else to say. We're
8 just happy to answer your questions. I can't remember
9 before doing all of our testimony in only half an hour, but
10 we're pleased to do that today. We're happy to answer your
11 questions.

12 MR. FEATHERSTONE: Thank you, Mr. Schagrin and all
13 the witnesses, for your testimony.

14 Mr. Cassise?

15 MR. CASSISE: Good morning, everyone. For the
16 record, my name is Chris Cassise from the Office of
17 Investigations.

18 The first issue I would like to discuss this
19 morning is an issue that was brought up in the recent sunset
20 review, and that is this market segmentation issue where you
21 have a wholesale market and then a distinctive retail
22 market.

23 It appears during the sunset review that the U.S.
24 industry dominated this wholesale market, and imports,
25 especially non-subject imports in the sunset review, i.e.,

1 Chinese imports, dominated the retail market. That seemed
2 to be an arrangement that everyone I don't know if they were
3 comfortable with it, but it existed at that time.

4 I guess my first question is just to kind of throw
5 that issue out to see what the industry representatives feel
6 about it, and then I'd like to follow up.

7 MR. SCHAGRIN: I think we'll probably have
8 everyone on the panel answer that question, Mr. Cassise.
9 Let me just begin by saying that we hope by the final phase
10 of this investigation the Commission will recognize that
11 that market segmentation is not a natural condition of
12 competition; that in many ways the Commission didn't really
13 get its analysis correct in the sunset review.

14 The basic reason for that is that, first, the
15 retail marketplace, the national hardware chain marketplace
16 which we call the retail, has been extremely important to
17 the domestic industry and has lost much of that business
18 because of price. As you'll hear, it has lost more of that
19 business over this period of investigation to the Chinese
20 because of price.

21 I think what you will also find is that the
22 domestic industry no longer dominates the wholesale
23 business, but that the Chinese are also taking much of the
24 wholesale business. Imports from China are just so large
25 that they are flooding into every segment of demand in the

1 marketplace.

2 Finally, I would like Mr. McInerney to comment
3 again about the fact that the market segmentation is largely
4 disappearing as it relates to sales to end use customers as
5 the hardware store chains increasingly go after the type of
6 contractors that traditionally Thomas Somerville and other
7 wholesale distributors have sold to, so in fact the lines
8 between the sales of the wholesale and retailers are
9 blurring significantly over the past several years.

10 Let me ask before you follow up with questions to
11 me on that. Let me ask maybe first Mr. Martin to address
12 that.

13 MR. MARTIN: Yes. Thank you, Roger. Yes. There
14 is just so much Chinese material coming in. The market
15 lines are pretty blurred together. We are definitely losing
16 the market share in retail business that we had and also in
17 the wholesale industry, whether it's PVF industrial or
18 whether it's the plumbing side.

19 MR. FISH: I would also like to just quickly
20 comment, and again the perception from the previous sunset
21 review was that that market was distinct and separate and
22 natural division.

23 For the record, from Anvil's standpoint, we are
24 very interested in that hardware, do-it-yourself retail
25 market. We actually made an acquisition in 1992-1993 to

1 purchase the U-Brand product line, which gave us significant
2 entree into that market. We saw that as a growing market.
3 We hope to be able to grow the sales of our products out of
4 our foundries in that market.

5 The first place I think that the foreign
6 competition went was to the retail market, but today with
7 the volume of product that they have we're seeing it
8 everywhere. There are no limits anymore to where they are
9 selling it and who they're selling to.

10 MR. GLEASON: Simply put, Ward has the ability to
11 sell all the things in the marketplace. It's how our
12 products are sold, you know, the wholesale market, retail
13 market, but there's quite a blurring of retail/wholesale.
14 Retail competes with wholesale, you know, so as
15 manufacturers we have the ability to sell the entire
16 spectrum of the market.

17 MR. SCHAGRIN: Mr. McInerney, could you add to
18 that?

19 MR. MCINERNEY: Sure. I'll address that. If you
20 read any of the financial reports of Home Depot, the major
21 thrust of their business is the contractor business, which
22 is our business. They set up contractor only areas in order
23 to get this business. They're after our market share, and
24 those lines are blurring.

25 MR. CASSISE: Let me follow up. If I understand

1 correctly, in the past the lines weren't as blurred because
2 of quality concerns that contractors had about foreign
3 products, especially the Chinese product?

4 The contractors demanded certain quality
5 specifically, and usually the U.S. producers could meet that
6 demand and the Chinese producers did not. Is that a fair
7 understanding of at least what the situation used to be?

8 What Mr. McInerney said about Home Depot working
9 with contractors is definitely evidence of a blurring of
10 those two market lines, but if you could all address maybe
11 the quality concerns that contractors have regarding Chinese
12 product? Do they still exist, or is that a non-issue in the
13 year 2002?

14 MR. FISH: From our standpoint, the product that
15 we manufacture has to meet certain specifications. The
16 Chinese product has to meet the exact same specifications.
17 In the early stages were there quality issues? Yes. As a
18 distributor or as a contractor, to have leaking fittings in
19 the field is a major problem. Today, the quality issues are
20 not there. I mean, these are equal products. They are the
21 same.

22 The other thing that I wanted to add as it related
23 to Mike's comment on Home Depot is not only have they set up
24 contractor only counters, but they've also purchased a
25 wholesale distributor to learn more about that business to

1 go after that business. The name was Apex Supply that they
2 purchased.

3 MR. CASSISE: Thank you.

4 MR. SCHAGRIN: Mr. Kafenshtok?

5 MR. KAFENSHTOK: There's also an economic reality,
6 and the economic reality is as the small wholesalers handled
7 foreign product it was a small business. As Home Depot has
8 handled the product and other areas of influence, the price
9 spread is just too big.

10 The price of the Chinese product has plummeted,
11 and the wholesalers are being held hostage to it because the
12 small contractor goes to Home Depot, buys the product, goes
13 to the distributor and says hey, what's the difference? The
14 distributor is defenseless. He's got to meet the market
15 condition. The only way to do it is to buy the same.

16 The other thing is years ago the distributor was
17 worried about liability. You know, if I handle a domestic
18 product for Ward or Anvil they'll stand behind it. If I
19 handle this Chinese stuff, who's going to stand behind it?
20 Well, the likes of B&K, which is a publicly traded company,
21 stands behind the Chinese fitting. Good enough for me.
22 Let's have it.

23 MR. MCINERNEY: I don't know what more I can add.
24 In fact, that's true. Home Depot purchased three or four
25 years ago a major wholesaler in Atlanta, and they are

1 looking at our business. They want to see how it works.

2 MR. MARTIN: Just one more word about Home Depot.
3 They have also across the United States opened up new
4 locations called HD Supply, you know, with huge banners at
5 their retail stores that give the address, you know, and all
6 contractors please go to so and so address. It's a huge
7 supply house just like one of Mike's stores would be.
8 There's definitely no line of hopping one to the other.
9 It's all there.

10 MR. CASSISE: Would you also agree that the Home
11 Depots and the Loews of the world have increased the retail
12 market where the retail market may have been much smaller in
13 the late 1980s or early 1990s, and as soon as Home Depot and
14 Loews sprouted up across the country all of a sudden the
15 retail market wasn't something to take lightly anymore,
16 especially with the blurring of the lines in the wholesale
17 and retail markets, but just the retail market in itself was
18 increased in size?

19 MR. SCHAGRIN: Others might have more expertise,
20 but my perception of this product and the way it's used is
21 that what Home Depot and Loews have done is "grow" the
22 retail market; retail in my parlance, having grown up in a
23 family in the retail business, meaning selling to customers
24 or in the case of Home Depot the do-it-yourselfers.

25 I don't think more people are saying gee, I think

1 I'll install my own gas line. I think what's happened is
2 that Home Depot and Loews have gone out and grown their
3 retail market by selling more products to contractors who
4 have traditionally bought from the wholesale market, and so
5 once again we get into this blurring of lines.

6 I don't know how you put it in ITC conditions of
7 competition parlance. However, I think that the Commission
8 shouldn't find that there's market segmentation between
9 retail and wholesale. Instead the Commission should find in
10 this investigation that the lines are being blurred and that
11 the hardware chains are growing their business by making
12 more sales to contractors who traditionally were customers
13 only of the wholesale market.

14 That in turn is causing more injury to the
15 domestic industry because they're losing more and more of
16 the volume. In the segment of the market that is growing,
17 they're not having the opportunity to maintain that
18 participation because they're losing out on the basis of
19 price. We'll address this further with some data in our
20 post-conference brief.

21 Mr. Kafenshtok, did you have anything to add on
22 that?

23 MR. KAFENSHTOK: They're after our customers.
24 There's no question about that. I don't think the market
25 has grown other than the normal economics because I think

1 what's happened is the individual who might have used a
2 plumber before might try it himself. The contractor now
3 goes to Home Depot and picks it up there.

4 Other than the normal economic growth, how do you
5 create something with malleable pipes and nipples? I'm not
6 so sure you can do that. I mean, it's not like it's a
7 technological product that's going to replace something
8 else. It hasn't grown, the market, at least in my opinion.

9 MR. CASSISE: Okay. Just to shift gears a little
10 bit, another issue I'd like to discuss is that demand has
11 been pretty stable or decreasing over the years. One of the
12 reasons cited may be that there are alternative products
13 available in the market.

14 I'd like the panel to discuss some of these
15 alternative products and how they affect this market and
16 this investigation.

17 MR. SCHAGRIN: I'd like Mr. Gleason to discuss one
18 of those alternatives products, but in general we'll have to
19 wait for all the data to come in. We really believe that up
20 until 2001, with a really strong run in the overall
21 construction market, both non-residential and residential,
22 because in this product much of the demand comes from the
23 residential market, and that has been very strong right up
24 until recently.

25 In fact, I think over this whole POI the growth in

1 the residential market has been very strong and has offset
2 some of the decline and maybe starting in 2001 in the non-
3 residential market. We think overall demand has grown, and
4 the growth in demand has outstripped any inroads made by
5 alternative products because we think those inroads have
6 been very, very small.

7 I would invite Mr. Gleason to comment on one of
8 those alternatives because it came from his company.

9 MR. GLEASON: You can go back in history right
10 after World War II, and a lot of technological changes
11 happened as a result of World War II. The people that made
12 bullets out of copper or brass said, you know, what do we
13 make now? They said well, people want to change to copper
14 pipes so that when you turn your faucet on you don't get
15 that little bit of rust first if you had a steel pipe system
16 for your water.

17 A lot of the technological changes that have
18 affected the industry in general have already taken place
19 back in the 1940s. That's why companies like Crane and
20 Laworth and Gerber and a number of them left in the 1940s
21 and 1950s.

22 You could say a little bit of change happened with
23 the plastic industry, and those changes have flushed
24 through, but there really has not been over the last 10
25 years any significant technological change for malleable

1 pipe fittings for water, oil or gas service other than let's
2 say one particular product, which we manufacture, is a
3 stainless steel gas piping system. That technology is
4 replacing steel pipe. Other of Roger's clients aren't happy
5 with me, but that's too bad, Roger. It's made here. It's
6 made in the USA.

7 If you look at a gas piping system and you look on
8 a cost basis, if someone is putting in natural gas lines in
9 their house probably less than three percent of the cost is
10 the malleable fittings. The largest component of the
11 expense is the steel pipe itself because you're only making
12 a couple direction changes.

13 Stainless steel corrugated tubing has affected
14 malleable fittings, but probably less than five percent, you
15 know, compared to the overwhelming impact that we're seeing
16 in terms of the imports, particularly from China, that are
17 coming in. In terms of technology, CSST is probably the
18 only one you could point a finger at and say it's having
19 some influence on the market, but really not significant in
20 the overall scheme of things.

21 MR. CASSISE: I think Mr. Martin had mentioned
22 that when the fittings are produced they're produced to
23 common standards no matter where they're produced, whether
24 it be here or in China.

25 I had a question regarding kind of U.S. standards

1 versus metric standards in the threading. Does that
2 preclude an export market say for U.S. producers unless they
3 retool their factories to these metric standards, or, you
4 know, the flip side of that as well?

5 If you could address the metric versus U.S.
6 standards, how that affects the market and whether or not it
7 takes some time to retool a foundry or what have you in
8 order to shift from one to the other and how long that would
9 take?

10 MR. SCHAGRIN: I would like to invite Mr. Kim to
11 answer that question first.

12 MR. KIM: The malleable fittings that are sold in
13 the U.S., basically if you divide it in three specs, which
14 is the material spec, which meets the ASTM malleable
15 material spec, and then there's the dimensional spec, which
16 is an ANSI ASME spec, and then there's a thread spec. All
17 the malleable fittings that are sold in the United States
18 meet these three specs. The Chinese fittings that are
19 coming into the United States meet those specs, too.

20 To machine the thread part in your question into a
21 metric, it is just a matter of putting the thread in a
22 metric standard, which would require some tooling change,
23 but not significant. Now, if you have to change the outside
24 dimensional spec, that would then require more change to the
25 tooling because you have to remake the whole casting.

1 As far as the malleable fitting that's sold in the
2 United States, whether it's domestic or Chinese it is made
3 to the same spec, which is the ASTM and the ANSI standard.

4 MR. CASSISE: That's the material spec?

5 MR. KIM: ASTM is the material spec. ANSI in the
6 dimensional spec.

7 MR. CASSISE: Thank you, Mr. Kim. That was very
8 helpful.

9 MR. KIM: You're welcome.

10 MR. CASSISE: Just a few quick data questions.
11 You mentioned the so-called jobbers in the petition as
12 selling unfinished fittings, unthreaded fittings, to Ward
13 and Anvil. My question is is that data, the purchases from
14 the jobbers, included in the U.S. producer questionnaire
15 data?

16 MR. SCHAGRIN: Yes, it is.

17 MR. CASSISE: Okay. And those purchases represent
18 a very small amount of overall production?

19 MR. SCHAGRIN: Yes. I think it's in the range of
20 one percent or less than one percent.

21 MR. FISH: I believe that's true. Just as an
22 interesting note as you're talking about jobbers, one of our
23 major ones has just announced that they're going to be
24 exiting the business. I don't know if we included that in
25 any of the data.

1 MR. CASSISE: My final question is for Roger just
2 to put in the post-hearing or post-conference brief, and
3 that is in the HTS numbers that we're using if you could
4 address any non-scope material that's in those HTS numbers
5 and how much is in there. We discussed that it was probably
6 a small amount, but if you could elaborate on that in the
7 brief that would be helpful.

8 MR. SCHAGRIN: We'll take a look at that and
9 discuss that with Ward and Anvil and address it in our post-
10 conference brief.

11 For the record here, we do believe that the
12 concordance between the scope and like product and the HTS
13 numbers for malleable threaded fittings other than grooved
14 is extremely high, and in fact there may be no differences
15 between what comes in those HTS items and what is subject
16 product. We'll address that in further detail in our post-
17 conference brief.

18 MR. CASSISE: Okay. Thank you. Thank you, Mr.
19 Schagrin, and thanks to all of you. I have no further
20 questions.

21 MR. FEATHERSTONE: Mr. Rees?

22 MR. REES: Thank you. Good morning. My name is
23 Mark Rees from the Office of General Counsel. Thanks to Mr.
24 Cassise's thoroughness, I don't have that many questions for
25 you.

1 Mr. Schagrín, on this like product issue, if I
2 understand it correctly, the basic position is the
3 Petitioners concur with the position or the findings the
4 Commission made in the 2000 sunset review respecting like
5 product and domestic industry.

6 MR. SCHAGRIN: That is correct. Not the
7 conditions of competition, but as to like product that is
8 correct.

9 MR. REES: It's always good to hear you agree with
10 something they've found.

11 MR. SCHAGRIN: I would agree with the Commission
12 most of the time. After all, they vote in the affirmative
13 in most of my cases so I'm a real affirmer of the Commission
14 and its work at different times on certain issues.

15 MR. REES: I'm not going to spend a whole lot of
16 time here, and obviously there's a history with the
17 Commission involving this product or similar products, but I
18 would ask you, Mr. Schagrín, in the post-conference brief to
19 address on the like product issue the six factors that the
20 Commission traditionally considers in its examination of the
21 issue, as well as rebut any claims we might hear from the
22 Respondents on this point.

23 We don't know yet the position they'll take vis-a-
24 vis like product in the domestic industry, and it will be my
25 first question to them if they don't put it in their

1 presentation.

2 MR. SCHAGRIN: We'll be happy to, Mr. Rees.

3 MR. REES: On the so-called jobbers, and it's
4 perhaps a technical point, but I just want to make sure I
5 understand it. Is it the Petitioners' position that the
6 jobbers are not domestic producers?

7 MR. SCHAGRIN: From a legal perspective, no,
8 that's not our position. It's largely not relevant because
9 it's such a small share so I don't think we have to spend a
10 lot of time addressing it. It's not important in this case,
11 and Mr. Gleason can speak to this.

12 These jobbers perform a role and essentially are
13 subcontractors for producers of a whole variety of iron
14 products. What they do as jobbers at least to Ward and
15 Anvil is to sell them small production products that it's
16 not economical for Ward and Anvil to make.

17 What they don't have, which makes them very
18 different from Ward and Anvil, is they don't have any
19 ability to market, to take their product to market. They
20 can only sell their products as jobbers to the U.S.
21 producers who do have the marketing departments, and then
22 they also don't have the ability to even produce a finished
23 product. They can only produce a "semi-finished" product.

24 Mr. Gleason?

25 MR. GLEASON: I think that, you know, from an

1 economics point of view why do we use Lancaster? I think,
2 Mr. Van Toai, you might have even visited one. With
3 Lancaster it's kind of sad to see them go because they're
4 the last air fired furnace in all of North America. It's a
5 little bit of history that we're losing in the foundry
6 business. It was an amazing process.

7 Years ago when you looked as a manufacturer of
8 product you say well, I've got these high speed molding
9 lines, the speed of which I could make thousands of parts a
10 minute, an hour, whatever number you want to use. Then I've
11 got and part of my product line are these very slow moving,
12 necessary items, but you're only going to sell a few dozen
13 pieces a year. What we had in our foundry was basically
14 hand work. You physically make these parts by hand. It was
15 very inefficient for us to do it.

16 You look around in the foundry industry, and
17 there's a number of other foundries that do job work. They
18 say hey, I'll do those little runs for you because we're set
19 up to do them. Specifically they have the economics to do
20 small quantity runs.

21 In that regard we said okay. Fine. We won't
22 produce them in Blossburg. You're going to produce them in
23 Lancaster, Pennsylvania, as castings. Then we will buy
24 those castings and thread them and fox them and test them
25 and package them and do everything else.

1 Our jobbers do not have the ability to go in the
2 market with a finished good. That's really the very simple
3 distinction. They're a subcontractor for us on a minute --
4 in our case it's an absolute minute portion of our business.

5 MR. REES: Thank you.

6 Mr. Schagrín, in the post-conference brief if you
7 would identify whether any domestic producers are related
8 parties and any discussion that would follow from that if
9 that's the case? I would appreciate that.

10 Exhibit 33 to the petition identifies certain lost
11 sales information which is confidential, of course. In the
12 post-conference submission, please explain the contents of
13 that exhibit and from what the information in that exhibit
14 is based.

15 On page 27 of the petition, the Petitioners
16 comment that China is estimated to have an excess of
17 production capacity and that available production capacity
18 for exports of malleable fittings is likely to remain
19 substantial and well above U.S. demand. Please identify
20 here or in your post-conference brief upon what you're
21 basing these conclusions.

22 MR. SCHAGRIN: We'll be happy to do that. That's
23 based on just general industry knowledge. We obviously
24 don't have access to the data that the Chinese producers
25 have. We would hope that the Chinese producers would

1 participate in the Commission's investigation. Obviously if
2 they don't, the Commission will have to try to fill in the
3 blanks created. Obviously you would look to Petitioners to
4 help do that.

5 One of the problems is that there are a lot of
6 foundries in China that either produce malleable iron
7 threaded fittings or are capable of producing them, and we
8 know from a 50 percent import surge they certainly have the
9 capability to rapidly increase their exports to the United
10 States.

11 It's very difficult to get a hold of any specific
12 information. We just have general information, which we did
13 present in the petition, about how many foundries there are
14 in China. We will try if we can't develop other information
15 about the increase in availability or excess capacity they
16 have.

17 We'll also use whatever is public from the non-
18 malleable investigation because we believe all of the
19 producers of non-malleable fittings in China, which we don't
20 think there's any home market in China, nor we are certain
21 there are any export market in any of the rest of the world.
22 The United States is the only developed country that even
23 uses non-malleable fittings.

24 In all the other countries they use malleable for
25 the same end uses that we use malleable, and they use

1 malleable for the end uses where we utilize non-malleable in
2 this country. With 55 percent dumping duties applied, I
3 think we can make some assumptions that much of the non-
4 malleable capacity in China is now available to make
5 malleable product as well.

6 Mr. Rees, we will do our best, and we will address
7 that in our post-conference brief.

8 MR. REES: Thank you. Mr. Schagrin, you mentioned
9 in the opening and identified in the petition as well that
10 Brazil initiated an antidumping investigation last year.
11 I'm wondering if you know the result of that investigation
12 and, if so, what they are, or if you learn subsequent to
13 today's proceeding please do include them if you receive
14 them before the post-conference submission.

15 MR. SCHAGRIN: We do not, and I did check prior to
16 the conference to see if anything had changed over the three
17 weeks since we had filed the petition. We were not able to
18 get any additional information on the Brazilian case.

19 Interestingly enough, having participated in some
20 investigations in foreign countries, in a lot of other
21 countries they don't adhere to the strict statutory time
22 limits that we do in the United States, so it's kind of
23 difficult to find out in countries like Brazil. We know
24 when they start, but somehow we never know when they end.
25 There's a great Brazilian phrase, attain manana.

1 Someday they will finish, I'm sure. Maybe it
2 creates difficulties for a Chinese exporter to Brazil; just
3 the fact that they don't know when the temporary duties will
4 be put into effect so it could be tough to line up a
5 shipment if between the time you take the order and the time
6 the shipment arrives in Brazil you may be subject to 100
7 percent dumping duties.

8 Obviously anything else we're able to find out,
9 Mr. Rees, we'll put in our post-conference brief.

10 MR. REES: Thank you. Finally on this point about
11 environmental related capital expenses, is that a
12 Pennsylvania specific requirement? I wasn't certain reading
13 the petition what precisely you were describing. We heard
14 some discussion already this morning about Pennsylvania's
15 Department of Environmental Protection and instruction of a
16 rule.

17 I'm just curious because from the petition I
18 wasn't certain precisely what we were talking about, whether
19 it's a requirement that's tied specifically to this
20 industry, an international requirement, what period of time
21 we were speaking of, just a little more description in terms
22 of what's involved on the environmental related capital
23 expenses.

24 MR. GLEASON: Sure. I'm obviously not an expert
25 on EPA law, but my understanding of it is it's a federal law

1 that the states have to enforce. The state accepts the
2 federal conditions of the Clean Air Act. They then have to
3 enforce them not only on Ward, but on all foundry operations
4 for particulate emissions, be it a foundry operation, be it
5 an automotive plant, whatever the case may be.

6 One of the reasons we're still in existence is
7 we've always kept in compliance to the laws as administered,
8 and I think that might be the right word, by the State of
9 Pennsylvania, so the federal laws. I believe that the Clean
10 Air Act changed the beginning of this year. I can get more
11 information on that, but Pennsylvania will enforce that. We
12 have until 2005 to come into compliance with the new
13 requirements of the Clean Air Act.

14 In order to do that, we have a considerable amount
15 of dust collecting equipment for fugitive emissions. Our
16 exhaust from our cupola goes through wet scrubbers. The wet
17 scrubber does not meet the new requirement in terms of
18 particulate emissions, so, therefore, we're going to have to
19 go to a dry bag house system or part of the RACT, readily
20 available control technology, aspect of this. We have to
21 basically redo our entire melting process to become
22 compliant.

23 That's my understanding. We can include more
24 technical information in the post-hearing brief.

25 MR. REES: Thank you. That's all I have. Thank

1 you very much.

2 MR. LEVY: My name is Joshua Levy. I'm with the
3 Office of Economics.

4 I guess my first question is kind of a general
5 question. Are there types of sizes of malleable pipe
6 fittings that are sold by domestic producers and not by
7 Chinese importers?

8 MR. FISH: Basically I would answer that, Josh, by
9 saying that the Chinese producer part lines almost mirror
10 ours. If you had to go item by item, we might have a
11 limited number of just a slightly broader product line, but
12 their lines are pretty broad.

13 MR. LEVY: So would you be talking maybe one
14 percent? Five percent?

15 MR. FISH: My guesstimate --

16 MR. LEVY: Guesstimate. Right.

17 MR. FISH: My guesstimate would be five. Five
18 percent.

19 MR. LEVY: Okay.

20 MR. FISH: Maybe.

21 MR. LEVY: I guess my second question would be for
22 Mr. McInerney. Are there non-price factors other than
23 quality that differentiate U.S. and Chinese product such as
24 differences in delivery lead times or service or, as was
25 mentioned earlier, liability?

1 MR. MCINERNEY: Currently I'm not aware of
2 anything that differentiates them, but then I'm not the one
3 sitting there buying it for our company or anything like
4 that.

5 It's important, you know. The price doesn't mean
6 anything if you can't get it and get it in a timely way.
7 The way you survive in our industry is by turning your
8 inventory. I can't give you specifics, but I don't believe
9 it's a factor at all because we wouldn't be moving in this
10 way if it was.

11 MR. LEVY: Okay. I guess another question is have
12 you also been facing competition from non-subject imported
13 malleable pipe fittings? If so, from what countries?

14 MR. SCHAGRIN: I'll let the panelists answer as
15 well, but I may be more familiar with exact import
16 statistics than they are. Non-subject imports have declined
17 over the POI, although by a much, much smaller percentage
18 than the rate of increase of subject Chinese imports, so
19 there are imports.

20 I think through the latest statistics, imports
21 from China are in the range of two-thirds of total imports,
22 so there are imports, some of which are subject to
23 continuing antidumping orders, most of which are not
24 currently subject to orders because the orders were a
25 sunset, but it's clear from the record import data that non-

1 subject imports continue to play a lesser role in the market
2 as imports from China are playing a much greater role.

3 MR. FISH: Just to clarify the question, you know,
4 as you talk about subject and non-subject imports, your
5 question is are imports from other countries of the same
6 product --

7 MR. LEVY: Right.

8 MR. FISH: -- also having the same effect?

9 MR. LEVY: Yes. Sorry.

10 MR. FISH: Okay. Just so we can put it in our
11 terms. I'm going to let John Martin answer that, but from
12 my standpoint their impact is minimal.

13 John?

14 MR. MARTIN: That's true. They're certainly there
15 in other countries, but again the amount of Chinese that's
16 coming into this country is not just replacing other imports
17 either. It's taking U.S. market share on the domestic side
18 and leaving the others to whatever their fate might be to
19 the balance of the import market.

20 MR. SCHAGRIN: Mr. Kafenshtok, do you want to add
21 something else?

22 MR. KAFENSHTOK: Mr. Levy, in my market in 1999 we
23 write an annual document for award about competition and
24 foreign penetration. In 1999, my document was virtually
25 blank. In 2000, we started to get quite a few distributors

1 on the radar screen, and in 2002 I've got pages and pages
2 and pages of distributors, wholesale distributors, that are
3 now buying product.

4 Very simply, the other countries' spread wasn't
5 great enough. At 30 to 50 percent, they're going like
6 flies. That's the answer.

7 MR. LEVY: Okay. So the other countries' pricing
8 is not similar to the Chinese? It's not as low as the
9 Chinese?

10 MR. KAFENSHTOK: Not by a yard.

11 MR. LEVY: Okay. I guess my last question would
12 be to the extent that you can either here or in your post-
13 conference brief, can you estimate the share of the U.S.
14 malleable pipe fitting market that is covered by Buy
15 American restrictions?

16 MR. SCHAGRIN: We'll do that in the post-
17 conference brief. We believe it's very, very small,
18 probably less than five percent; certainly less than ten
19 percent.

20 MR. LEVY: Okay. Thank you.

21 MR. VAN TOAI: Good morning. Thank you for
22 coming. My name is Norman Van Toai, international trade
23 analyst from the Office of Industries. First I'd like to
24 ask some general questions regarding the petition, and then
25 I would have some specific technical questions later.

1 Number one is on page 15 regarding the selection
2 of a surrogate value for electricity price. You use the
3 OECD price for India. I wonder from what I know about the
4 price of electricity or the price of energy in India in
5 general. Many state electricity boards in India have gone
6 bankrupt because of management problems and because of the
7 supply of free electricity to quite a few sectors like
8 farmers and people like that because of political issues
9 there.

10 I wonder how reliable it is to use the Indian
11 price of energy, the price of electricity and natural gas,
12 to calculate the value, the price, the total price of the
13 Chinese products. Could you address that issue?

14 MR. SCHAGRIN: Sure. I'd be happy to, Mr. Van
15 Toai.

16 MR. VAN TOAI: Yes.

17 MR. SCHAGRIN: I don't want to seem at all evasive
18 in my answer, but the fact is that the Commerce Department
19 tends to do the same things over and over again in China NME
20 cases or previously in other NME cases, and at least for the
21 decade that I've been doing cases against China the Commerce
22 Department has been using the same sources of data for
23 energy costs in India. Those of us who are in this practice
24 like to say if that's what the Commerce Department wants to
25 use, then if it's not broken we're not going to go out of

1 our way to fix it.

2 I mean, really in most of these cases they tend to
3 use similar types of data for surrogate value information,
4 and we tend to continue using that same type of data. You
5 know, from our clients' perspective they don't want to pay
6 me to become an expert on the Indian energy industry if they
7 don't have to. They want to pay me to become an expert on
8 the U.S. malleable pipe fittings market.

9 MR. VAN TOAI: My second question is when you
10 inflate the Indian price from 2000 to 2002, September, you
11 use the U.S. producer price index for that particular
12 period. By using that you actually assume two things.
13 Number one is that the rate of inflation of the two
14 countries would be roughly the same. Number two, you make
15 the assumption that the exchange rate has been very stable
16 in that period. Are they stable? How do you feel about
17 those two issues?

18 MR. SCHAGRIN: My answer is similar to the first
19 question. It's the way the Commerce Department does it, so
20 they don't give us choices. We do it the way that they do
21 it in their investigations.

22 If that's the process that they want, that they
23 both utilize and then they require that the Petitioners
24 utilize the systems that they utilize, then we utilize the
25 same types of analysis. As I guess the British said in the

1 Charge of the Light Brigade, you know, it's not for us to
2 reason why. It's just for us to do and die.

3 MR. VAN TOAI: My third question is on page 20 you
4 mention that malleable pipe fittings be fitted as a
5 commodity product based on page 20 of the petition. Then on
6 page 23 you mention that Ward and Anvil had decided not to
7 compete with imports from China based on price.

8 I would guess that from the way I understand it, a
9 product could either be treated as a commodity or a service.
10 Now, how do you treat it now? You say that it is a
11 commodity product, but you do not compete against the
12 Chinese product based on price, so how do you market your
13 product? Do you follow up with a certain type of services?
14 Do you provide your product with other products as a bundle
15 or something? How do you market it?

16 MR. SCHAGRIN: I'll ask both Mr. Gleason and Mr.
17 Martin, who are in charge of marketing, answer that
18 question.

19 I would just say as a general proposition knowing
20 the way the ITC, you know, focuses on the economics of
21 products I don't want there to be a misunderstanding.
22 You're right, Mr. Van Toai. We say that it's a commodity
23 product. The assumption is commodity products, if they're
24 all the same products, all made to the same specifications,
25 are ipso facto then sold on the basis of price, and that is

1 the case.

2 What is happening in this marketplace is that the
3 prices from China are so far below domestic prices, and this
4 is different from other cases. As I think the Commission
5 staff is aware of, there's been a lot of steel cases. There
6 where pricing is 10 or 15 percent lower on imports compared
7 to domestics, domestic producers will lower their prices to
8 try to maintain volume because maintaining volume is so
9 important to cost.

10 Where pricing is 50 percent below and you look at
11 the profit margins of these producers and you can
12 automatically see that if they lower their prices to try to
13 maintain volume they're just immediately out of business.
14 To try to compete with the Chinese at Chinese prices or
15 anything close to them would put them in such a loss
16 position that they would quickly shut their foundries.

17 These producers have in effect on a commodity
18 product that if sold based only on price they have chosen to
19 just give up volume completely to the Chinese at the Chinese
20 prices. Therefore, we would say in this investigation,
21 given the amount of underselling, the Chinese industry can
22 sell and take as much of the U.S. market as they desire up
23 to virtually 80, 90 or 100 percent of the U.S. market.

24 It's just a question of how much can the Chinese
25 supply to the U.S. market because given the price

1 differentials and given the commodity nature they can just
2 grow their market share as much as they're capable of
3 growing their share.

4 Mr. Martin or Mr. Gleason, would you care to
5 comment on Mr. Van Toai's question?

6 MR. GLEASON: Mr. Van Toai, one of the reasons
7 we're here is we have a major problem in this regard with
8 regard to price.

9 Import fittings have been in the U.S. market for a
10 long, long time. Have they been a commodity? Yes. Mike
11 might address this also. If the price spread is 10 or 15
12 percent below the U.S. price the wholesaler generally said
13 well, that isn't a big enough difference for me to have dual
14 inventory, some that I can have, you know, a 15 percent
15 advantage on. You know, I'm a wholesaler. I have to supply
16 my customers with what my customer wants. If they want Ward
17 fittings, they're going to provide Ward fittings.

18 The problem is right now the wholesalers are
19 looking at such a huge, huge advantage that they could, like
20 in the case of Mike's company, have the ability to dual
21 inventory and still be okay or, quite honestly, take total
22 advantage of the price and switch completely.

23 There's a lot of history, but it comes down to
24 price. The cheaper the price, the more people you're going
25 to attract with that price.

1 MR. MARTIN: Yes, sir. I'd add to that. You
2 know, quite simply stated there's an absolute limit even on
3 a commodity product where you can continue to drop your
4 price and stay in business. That's why we're here. There
5 is a spread.

6 Some of the other countries that Josh alluded to
7 where their business goes and that type of thing, but our
8 package has value, no question, but there's an absolute
9 limit to the price of what a half inch elbow has to be.
10 We're at that limit.

11 MR. VAN TOAI: Could you please give us some
12 indication about the quality of the machine and equipment in
13 the Chinese pipe fitting making industry? Do they use
14 modern equipment, new equipment imported from Western
15 countries, or they have old facilities making it?

16 MR. GLEASON: I couldn't answer that directly, Mr.
17 Van Toia. I have not been there. What Mr. Kim had said is
18 you have to make a thread form that complies with the ANSI
19 specification for truncation, pitch, height, depth, length
20 of engagement, and so forth. As long as you've got whatever
21 equipment -- I mean, it could be 50 guys sitting on the
22 floor with a hand tap putting it in. I honestly don't know.
23 But, at the end of the day, did that half-inch elbow meet
24 that specification and if they can say, yes, it did, it
25 does.

1 So, our evaluation of their product is that it
2 will -- the thread form does conform to ANSI; therefore,
3 it's equal to ours. But the equipment, specifically, it's
4 hard to determine. You know, sometimes, you can look at
5 checkmarks inside and see if they use a three prong, four
6 prong, whatever. But, it's really hard to determine in the
7 case of the Chinese. I honestly don't know. I don't know
8 whether Mr. Kim can evaluate that.

9 MR. KIM: I'm sure the Chinese foundries have the
10 ability to purchase the modern equipment that we use here in
11 the U.S. But, my guess, it's unlikely, because of the -- we
12 were talking about the environmental requirement. If you do
13 not have as stringent environmental requirement as we do,
14 you can use an equipment with less controls; thus, a cheaper
15 equipment, inexpensive. For us, to use the same equipment
16 as the Chinese use, that I've seen in a Chinese foundry, it
17 would not meet the safety and the environmental requirement
18 that the U.S. has.

19 MR. VAN TOAI: You mean that they may have -- they
20 may not have scrubbers like we do here?

21 MR. KIM: Definitely not. They do not have -- the
22 foundry that I've seen in China do not have scrubbers; do
23 not have a back house; do not have a dust collection system;
24 do not have the -- you know, we talk about the environmental
25 requirement, but there are also safety requirements in

1 equipment, how close an employee -- an operator can get to
2 the machines. No, they do not.

3 MR. GLEASON: Just to add a little bit onto what
4 Mr. Kim said, even in our tapping operation, most companies
5 you'd almost say, well, you should use oil as a lubricant to
6 tap. We can't, because of the Clean Air Act regulates the
7 VOC, the volatile organic compound. We'd have to have a
8 collection system over all of our tapping equipment.
9 Therefore, we'd have to use like Nelco, which is an oil base
10 -- or water base tapping fluid and then that also has to be
11 environmentally friendly, because the employees, whose hands
12 come in contact with it.

13 So, even on how we put a thread in on the U.S.
14 side is regulated to a great degree, where it would have
15 been easier, I'm sure for Bob's plant and mine, just to go
16 out and buy a 55-gallon drum of oil as your lubricant. But,
17 we can't do that.

18 MR. FISH: Myself and several Anvil associates
19 have visited over in China, have visited various foundries
20 in China, and their equipment can range from the disamatic
21 automatic molding type of equipment that we have, down to
22 your basic floor molding, which was done here in the United
23 States in the 1900s. I mean, you're talking about an artist
24 doing the mold, putting it in the ground, burying it,
25 pouring it, and then digging it up, and that's that. And

1 they, also, some other foundries, will have automated
2 molding equipment, depending on what the needs are.

3 The advantage of the automated equipment is the
4 repeatability of what you get. When you floor mold and you
5 have the artist, the artist has to be good every time. So,
6 again, to say what everyone does, I don't know. But, it
7 goes from out technology back in the early 1900s, to the
8 current technology today. There are disamatic equipment,
9 which is an automatic molding equipment, that's made in
10 China. They make their own. So, they do exist over there.

11 MR. VAN TOAI: Thank you.

12 MR. FISH: The other thing that we did find when
13 we went to China is that the wage rate is approximately \$100
14 a month, regardless of hours. That makes a big difference.

15 MR. VAN TOAI: Talking about the environmental
16 issues, is sulfur inclusion a serious problem for Ward and
17 Anvil, because you produce a lot of malleable iron there?
18 Is that a serious issue?

19 MR. GLEASON: Sulfur inclusions?

20 MR. VAN TOAI: Yes.

21 MR. GLEASON: Well, I think any inclusion. I
22 mean, basically, in a casting process, you can get ferocity.
23 You can get inclusions. You can get a number of casting
24 defects. How you run your equipment and your scrap rate, I
25 think any foundry operation has a certain amount of scrap,

1 where the castings just aren't right. The sand could have
2 been too dry. It could have been too wet. You could have
3 had an inclusion. You could have had a core collapse. You
4 could have had a number of issues there.

5 I think, as far as it being a problem, it's always
6 a problem with any foundry. To the degree that that problem
7 affects you economically is what you task your engineers and
8 your production people to constantly improve. Mr. Kim?

9 MR. KIM: Mr. Van Toia, when you say "sulfur
10 inclusion," sulfur inclusion in the casting or into the
11 environment?

12 MR. VAN TOAI: In the casting and the environment,
13 because we are addressing the environmental issue here.

14 MR. KIM: Most of the --

15 MR. VAN TOAI: How much you reject, the rejection
16 percentage.

17 MR. KIM: From the material point of view, the
18 sulfur requirement in your material spec. From the
19 environmental point of view in a foundry, the regulatory
20 requirement is more -- more effort is put into the air
21 control, the stone water control, in case of silica or
22 smoke. There's a lot of metal. But, not much, as far as
23 the sulfur is concerned into the environment.

24 MR. VAN TOAI: Oh, I see. So, it's not a serious
25 issue regarding oxygen and things like that, in making the

1 sulfur?

2 MR. KIM: Not from the foundry.

3 MR. VAN TOAI: Okay. Many of you mentioned this
4 morning about Home Depot importing malleable pipe fitting
5 into the U.S. I went to Home Depot and I noticed that many
6 of them sell the Miller pipe fitting. Now, I believe that
7 Miller is Anvil's parent. So, is there a mixup between
8 names here? Because, when I picked it up, I did not really
9 understand very well the -- one of the key reasons for this
10 petition is -- why do you petition against yourself?

11 MR. FISH: Let me see if I can clarify. Anvil
12 International is owned by a company by the name of the
13 Mueller Group and ultimately by a fund of First Boston. One
14 of our sister company's name is the Mueller Company. They
15 make fire hydrants and vials for fire hydrants. Mueller
16 Industries owns B&K, a totally separate company, public
17 company, totally separate. There is one other Mueller
18 Company, as well, Mueller Steam and Specialities. So, there
19 are three Mueller companies with the name Mueller --

20 MR. VAN TOAI: Were they used --

21 MR. FISH: -- separate and distinct. Excuse me?

22 MR. VAN TOAI: Were they used to be from the same
23 company --

24 MR. FISH: To the best of my knowledge, no.

25 MR. VAN TOAI: -- a few years ago or something?

1 MR. FISH: I don't know if Hieronymous Mueller was
2 related to some of the others, but they are -- the companies
3 today are separate and distinct legal entities. They're not
4 sister companies. There's no relationship there.

5 MR. VAN TOAI: It's just a coincidence, then.

6 MR. SCHAGRIN: But it happens to be a bad
7 coincidence. We don't want to cause any confusion at the
8 Commission, but our understanding is that the fittings that
9 would probably be inputted by B&K, because of the fact that
10 Mueller Industries, this public company, was also producers
11 in the United States a number of fittings, I believe copper
12 and brass. It sells Chinese fittings that, we believe,
13 ought to be marked with the country of origin China on each
14 fitting. But, it marks the Mueller name on the fittings.

15 And for American consumers, like yourself, Mr. Van
16 Toia, going into Home Depot, you pick up a fitting, you see
17 this big name on the fitting that says, "Mueller." You know
18 Mueller is an American company, Mueller Industries, and you
19 think, I've got an American fitting; it's Mueller. Heck, it
20 may even be Anvil, because Anvil is owned by Mueller. But
21 the fact is, it's a fitting made in China, stamped with a
22 Mueller name as a trade name and as a marketing tool and
23 then sold to American consumers.

24 We believe -- I'm not going to give these folks
25 back here, who are going to testify next, any problems with

1 the Federal Trade Commission; but, let's say, we have a lot
2 of problems with a lot of products and marking issues, as to
3 whether or not American consumers really know, when they go
4 to the Home Depots, Wal-Mart's, et cetera, whether they know
5 they are buying foreign-made Chinese products or whether
6 they think, oh -- I mean, this is with everything. You pick
7 up a hammer, you pick up anything at Home Depot. The name
8 of the American company that is marking the product is
9 usually very large. And you get to the fine print or you
10 get to the back of the fitting and you may see on the actual
11 fitting, China.

12 They're all supposed to be marked. Or, you may
13 actually see China in -- I know the Home Depot I went to
14 actually had some LPN fittings or LVR, and you see the LVR
15 and the China actually on the bar code, itself. You don't
16 always see it. Not all the fittings, even though each
17 fitting is supposed to be marked legibly for every American
18 consumer to see it's made in China. Often, the fittings
19 I've seen at Home Depot are marked with China on the bar
20 code. And with the way my eyesight is these days, I have a
21 hard time finding China on the bar code.

22 So, we hope we've cleared up the confusion. I
23 think the next panel will be able to clear it up even
24 better, because they're actually a part of Mueller, the
25 other Mueller. It's a pretty popular German name, also.

1 There's probably a lot of Muellers in this country.

2 MR. VAN TOAI: My last question is, not so long
3 ago, Ward, you made ductile pipe fittings some years ago and
4 then Anvil now doesn't make threaded ductile fittings
5 anymore. I was wondering why do you -- why both companies
6 withdrew from the ductile markets like that, but not the
7 malleable market yet.

8 MR. FISH: I will speak first for Anvil. We do
9 make a ductile fitting. It is part of our Groove Lock
10 product line. It is a grooved fitting. It is not a
11 threaded fitting. That's still a major part of what we do.
12 We still manufacture those. And so, we have never made a
13 ductile threaded fitting, but we do make a grooved ductile
14 fitting.

15 MR. VAN TOAI: Is that because of the cost of
16 setting up the machining equipment or something? Because,
17 the casting is the same, molding is the same. All you have
18 to do is to have certain type of --

19 MR. FISH: Oh, no, that is not true. The size of
20 the fitting and the specifics, as far as the metallurgy and
21 everything else are different. Ductile is a whole -- I
22 mean, you have your --

23 MR. VAN TOAI: Oh, no, I'm talking about the
24 grooved ductile and the threaded ductile.

25 MR. FISH: The grooved ductile versus --

1 MR. VAN TOAI: Right, rather than between ductile
2 and malleable, because the differences between them. But,
3 we're talking about the same ductile. Why don't you make --
4 why did you withdraw from the threaded ductile pipe fitting
5 market?

6 MR. FISH: We have never been in the threaded
7 ductile --

8 MR. VAN TOAI: Oh, I see.

9 MR. FISH: -- pipe fitting market. We never made
10 those products, so we have not withdrawn from the market.

11 MR. GLEASON: Mr. Van Toia, Ward neither has ever
12 made a ductile threaded fitting. On a technical point,
13 you're right, the chemistry is different on the ductile. A
14 lot of the properties of ductile are such that you get an
15 advantage, if you can have cooling in the mold. If you run
16 your mold line so fast that you don't get proper cooling of
17 the ductile in the mold, you have to heat treat it anyway.
18 So, I mean, then there would be no economic advantage for us
19 to, say, give up malleable, in order to make ductile. We'd
20 have to heat treat the ductile anyway. And then because of
21 the chemistry, I'd have greater tool wear, because of the
22 modularity of the ductile. It would tear up my tools a lot
23 faster than malleable iron would.

24 So, we never went ductile. There was no advantage
25 for us.

1 MR. VAN TOAI: Thank you, very much. That's all I
2 have.

3 MR. MEHTA: I have some questions on the question
4 of data. So, I'll pass on those questions in writing and
5 then --

6 MR. SCHAGRIN: That's fine, Mr. Mehta. We'll be
7 happy to answer those. I think you have given us some
8 follow-up questions that are due to be answered on Friday,
9 which we will do. And if you have any other questions,
10 we'll supply them with our post-conference brief. Okay.
11 We'll be filing those on Friday.

12 MR. DEYMAN: I'm George Deyman, Office of
13 Investigations. The scope of the petition excludes grooved
14 fittings, at least the way you've defined it in the
15 petition. We have not seen the Commerce Department's
16 initiation or their scope definition. But, we presume that
17 grooved fittings are excluded. Could you tell us a little
18 bit more about the grooved fittings, whether Anvil and Ward
19 produce them; how different they are from the subject
20 fittings?

21 MR. SCHAGRIN: I'll let the people in the industry
22 answer that. But, Mr. Deyman, we haven't seen the scope
23 from Commerce either. I think that it will be available
24 sometime around noon today, they'll make their decisions on
25 initiation and give everyone the initiation notice and the

1 scope. But, we would very much presume that. Since the
2 petition excludes grooved fittings, the Commerce scope will
3 also. And I'll ask, maybe Mr. Kim to talk about the
4 difference between grooved and threaded fittings, at least
5 from a technical perspective; maybe Mr. Fish and Mr. Martin
6 from a market standpoint.

7 MR. KIM: I'll try to explain it in layman's terms
8 and then Bob can tell you some of the details. Basically,
9 if you're looking at a steel-piping system, you can put it
10 together a couple of different ways. One is to thread it
11 with malleable pipe fittings, couplings. The other is to
12 groove it. And we do manufacture both malleable iron pipe
13 fittings and ductile grooved pipe fittings and couplings
14 that go with it.

15 The grooved system simply is that you would have a
16 piece of pipe and then either an elbow or a coupling and
17 join two pieces of pipe together. Generally, with the
18 coupling, you have two pieces of pipe. You put grooves on
19 the end of it. We have a -- it's almost like a clamp for
20 the gasket to get inside and it seals the pipe. The other
21 way to do that is the coupling. If you're bending a corner,
22 again, you groove the end of a pipe. You have grooves on
23 your fittings that go like this. And you put two couplings
24 to join the piece of pipe. So, two ways to connect pipe.

25 The other way, the third way, which I haven't

1 mentioned, is welding. Bob, why don't you -- maybe you can
2 explain just a little bit about the difference between the
3 ductile fitting and the grooved fitting, from a technical
4 standpoint.

5 MR. KIM: I think Tom basically explained. It's
6 just a different method of joining pipes. First, you can
7 weld a pipe. Second, you can thread the pipe and then use
8 the threaded fitting to join it. And the grooved side, you
9 do have to prep the pipe. You have to put a groove in the
10 pipe. But, the pipe and the fitting have to be joined using
11 a coupling, which is a half-circled part that grabs onto the
12 groove and you have a gasket in the middle, to prevent it
13 from leaking.

14 From the material point of view, I think it's more
15 evolution of material. Gray iron, which is a non-malleable
16 iron, was basically a cheap and the simplest iron that was
17 invented a long time ago. And then they went to malleable,
18 which gives you some -- that's why it's called malleable --
19 elongation. And then in the ductile case, you have even
20 more elongation. Malleable, the elongation is five percent;
21 in ductile, it's about 12 percent. So, it's more flexible
22 and it's a newer material.

23 The technology of grooving is probably the latest
24 of the three: welding, threading, and grooving. So,
25 obviously, they use the latest type of metal to make a

1 grooved fitting.

2 So, I hope I explained that technically.

3 MR. MARTIN: I would add two more big differences.
4 In the grooved system, you have a flexible pipe system,
5 which allows for movement in a hot-cold system versus a
6 rigid system on a threaded and welded. And you, also, have
7 a size range difference. Grooved goes as high as 24, 36
8 inches versus screwed fittings normally stop at six and very
9 little usage over four.

10 MR. SCHAGRIN: And, Mr. Deyman, we didn't bring
11 any show-and-tell items to this hearing. We did bring them
12 to the non-malleable. But, in terms of physical appearances
13 of the products, they are dramatically different. The
14 grooved fitting is physically -- it's a contraption. You
15 know, it's got rubber gaskets inside it. The malleable
16 threaded fitting is just what you see. It's just a single
17 piece of iron that's been threaded.

18 So, physically, they're very different and I guess
19 the way they're actually attached by a plumber is different
20 and it has to do a lot with deciding what to use, has to do
21 whether you're going around corners, or the flexibility of
22 the system and the ability to move. So, it performs a
23 similar function; but for people in the trade, it's
24 perceived differently and it's physically very different.

25 MR. KIM: Also, if I might add, you cannot use

1 grooved in a gas system, which malleable you can use in a
2 gas system.

3 MR. DEYMAN: Just for the record, is a grooved
4 fitting a malleable fitting? We know the answers to some of
5 these questions, but it's important to get them on the
6 record.

7 MR. GLEASON: In 1924, when the first -- I'm sort
8 of like the industry historian here, so excuse me. But,
9 basically --

10 MR. SCHAGRIN: Mr. Gleason doesn't look 115 years
11 old.

12 MR. GLEASON: Roger, I feel it, though. My wife
13 said I looked 115. But, basically, the grooved piping
14 system was invented by the British, to lay oil lines from a
15 barge at sea. Inland, as the tanks moved forward, they need
16 oil to run the tanks. And so, they needed a very flexible
17 piping system. And Victory Hydraulics or the Victaulic
18 Company was formed and they made a grooved coupling.

19 In the twenties or the teens, 1900s, you had a
20 choice of cast iron. And then, I guess, as -- they started
21 out with wrought. And then when malleable was invented,
22 they went to malleable iron, to make their product. So
23 through the twenties, thirties, forties, fifties, I'd say,
24 the grooved product was made out of malleable iron.

25 The technology changed. Now, you can have ductile

1 iron, as the ductile process was invented. So, because of
2 the shape and the sizes of the grooved product, it was more
3 economical for them to not heat treat it, but you would
4 malleable, but to go to a ductile product. And so, I'd say,
5 today, ninety-nine-and-nine-tenths percent of all grooved
6 product today is made with ductile iron, because of a lot of
7 heat treat issues, if you will.

8 The best way to distinguish grooved product from
9 threaded is that all grooved products require gaskets. What
10 we have in our scope is all products that don't require a
11 gasket, in terms of threaded. The only way you can put a
12 grooved system together is with a rubber gasket. A threaded
13 piping system requires no gasketing.

14 MR. SCHAGRIN: So the short answer to your
15 question, Mr. Deyman, is that almost all grooved fittings
16 are made of ductile iron, not malleable iron. However, to
17 ensure that there's no prejudice in the non-malleable pipe
18 fittings case, where the Commission is also looking at like
19 product again, the fact is that in threaded fittings,
20 because the grooved fittings are not threaded fittings, that
21 ductile iron fittings that are threaded compete directly and
22 are interchangeable and are substitutable for non-malleable
23 iron threaded fittings. It happens that ductile grooved
24 fittings, really because of the fact that they're grooved,
25 not because of the fact that they're ductile, are not

1 interchangeably with malleable iron threaded fittings.

2 MR. DEYMAN: I simply brought up the question of
3 grooved fittings, in the event that someone may make an
4 argument that perhaps on the domestic side, on the domestic
5 like product, that grooved fittings should be included. So,
6 I'll ask one more question about grooved fittings. Do Ward
7 and Anvil produce the grooved fittings and, if they do, are
8 they produced on the same equipment and machinery with the
9 same employees as the subject threaded fittings, just for
10 the record?

11 MR. FISH: Anvil does manufacture grooved fittings
12 and they are manufactured in the same plant; in most cases,
13 not on the same equipment, but they could be made on the
14 same equipment.

15 MR. GLEASON: Ward does not make grooved product
16 currently.

17 MR. SCHAGRIN: Mr. Deyman, just to complete the
18 record and not to speak for a company that is not here, but
19 based on market knowledge, Victaulic Company, which, I
20 guess, in the history, was actually the company that
21 invented ductile grooved fittings and which is also located
22 in Pennsylvania, is the preeminent and dominant producer in
23 the United States of ductile grooved fittings and, to our
24 knowledge, does not produce any malleable threaded subject
25 fittings at all.

1 MR. DEYMAN: Thank you. I have a couple of
2 request for information in your post-conference briefs. It
3 was mentioned earlier by Mr. Kafenshtok, I believe, that, at
4 our request, he was to find names of customers that had
5 bought the Chinese product. Could you do that in the post-
6 conference briefs? If possible, if you have their telephone
7 numbers and a contact, we would appreciate that, but I'm not
8 asking you to do that. Just the names are enough.

9 MR. KAFENSHTOK: I'm happy to do it.

10 MR. DEYMAN: Mr. Gleason indicated that there was
11 a jobber that exited the business. Can we have the name of
12 that jobber in the post-conference brief, please?

13 MR. SCHAGRIN: Yes. It's Lancaster, and I believe
14 one exhibit in the petition has a letter that Lancaster sent
15 out to its customers, stating that they would be exiting the
16 business.

17 MR. DEYMAN: All right. And someone mentioned, if
18 I recall, that a Chinese company purchased a wholesale
19 distributor, or something to that effect. Maybe I
20 misunderstood. But, if that's the case, could you indicate
21 to us the name of that distributor?

22 MR. SCHAGRIN: I think, Mr. Deyman, based on what
23 I heard up here, I think you misunderstood. I think the
24 commentary was that three or four years ago, that Home Depot
25 had purchased a major supply distributed company. I think

1 that was based in Atlanta. We'll re-clarify that.

2 MR. DEYMAN: All right. Yo mentioned that imports
3 have increased and they have, according to the official
4 Commerce statistics. I noticed that although there was an
5 increase between 1999 and 2001 of imports from China, that
6 the increase is more pronounced in 2002. What was happened
7 in 2002 to cause a greater increase this year than in past
8 years, at least based on data through August?

9 MR. GLEASON: Mr. Deyman, I think it's a
10 combination of factors. I think the fact that China has
11 lost in other parts of the world and they have so much
12 capacity, I think it all came here, quite honestly. That is
13 the situation. And if they cannot ship to Europe or certain
14 -- they've lost in Mexico and, obviously, they're under
15 pressure in South America. The U.S. is a pretty wide open
16 marketplace for them.

17 MR. MARTIN: Anvil would concur with that, also,
18 with that same statement.

19 MR. KAFENSHTOK: Mr. Deyman, the other issue is
20 that, as the market, at the wholesale side, took a look-see
21 attitude, to see whether they would have problems and the
22 fact whether this commodity held. They have found that the
23 commodity holds. That, combined with the market price
24 deteriorating tremendously by an additional 20 or 30
25 percent. You've got this acceleration going on. We have a

1 commodity. It works at 50 percent less. And I think this
2 will now grow exponentially.

3 MR. DEYMAN: And speaking of imports and import
4 data, we would like you to comment in your post-conference
5 brief as to whether it will be preferable to us, in our
6 staff report, to use official Commerce statistics or the
7 imports that we've obtained from questionnaires that we sent
8 to importers. I don't know if you even have the APO release
9 yet, but --

10 MR. SCHAGRIN: We don't.

11 MR. DEYMAN: -- if you could comment on that.

12 MR. SCHAGRIN: We believe in this product area,
13 unlike some other product areas that we deal with that have
14 come before the Commission, that the import data should be
15 good reliable data. This is a product that has been
16 imported to the United States for a long time, that
17 importers should be aware of where this should be
18 classified. The description in the harmonized tariff system
19 for this product is pretty clear. And so, we don't have any
20 reason -- we've had a discussion with members of the
21 domestic industry. We don't have any reason or belief to
22 doubt the accuracy of the Commerce import data.

23 MR. DEYMAN: And my last question is, it was
24 brought up earlier -- it was asked earlier whether there are
25 any of these pipe fittings here that are not produced in

1 China. And I'd like to ask the opposite: are there any
2 malleable iron pipe fittings produced in China of types or
3 standards that are not produced here?

4 MR. SCHAGRIN: Mr. Martin?

5 MR. MARTIN: I don't know of any. Again, the type
6 of material, primarily, we both produce exactly the same.
7 So, I don't have any knowledge of that being any different.

8 MR. GLEASON: I would agree with Mr. Martin. I'm
9 not aware of them producing anything that we, as domestic
10 producers, would produce.

11 MR. DEYMAN: I have no further questions. Thank
12 you.

13 MR. FEATHERSTONE: Thank you all again for both
14 the testimony and for the responses to our questions.

15 We'll take a ten minute break and resume the
16 conference at that time with Mr. Smirnow.

17 (Whereupon, a short recess was taken.)

18 MR. FEATHERSTONE: Can we resume the conference,
19 please? Welcome, Mr. Smirnow.

20 MR. SMIRNOW: Thank you.

21 MR. FEATHERSTONE: Please proceed.

22 MR. SMIRNOW: Thank you, Mr. Featherstone. Good
23 morning, Mr. Chairman and members of the Commission's
24 investigative team.

25 For the record, my name is John Smirnow of the law

1 firm of Katten, Muchin, Zavis, Rosenman. I appear here
2 today on behalf of importer Respondent B&K Industries. With
3 me are Rob Tripp, director of global sourcing for B&K, and
4 Kathleen Murphy, also of the law firm of Katten, Muchin,
5 Zavis, Rosenman.

6 We'll begin our presentation with Mr. Tripp, and
7 Mr. Tripp will address what we believe are important
8 conditions of competition in the U.S. malleable fittings
9 market. I will then follow up with some additional points,
10 discussing volume, price and impact. Finally, Ms. Murphy
11 will respond to some of the Customs marking issues that were
12 raised earlier today.

13 Mr. Tripp?

14 MR. TRIPP: Good morning, Mr. Chairman, members of
15 the Commission's investigative team.

16 My name is Robert Tripp. I'm the director of
17 global sourcing for B&K Industries. B&K is an importer of
18 subject malleable iron pipe fittings from China. I appear
19 here today to provide the Commission with the central
20 conditions of competition which have yet to be adequately
21 addressed in these proceedings. These additional facts, we
22 believe, provide a more balanced picture of the U.S.
23 malleable fitting market, as well as a more balanced picture
24 of the role of subject imports in the U.S. market.

25 As a starting point, it must be recognized that

1 the U.S. malleable fittings market is segmented into two
2 separate and generally distinct markets, the wholesale
3 market and the retail market. Importantly, the sales of
4 domestic product are largely concentrated in the wholesale
5 market, while the sales of imports from China are
6 concentrated in the retail market. This fact was recognized
7 by the Commission majority in its recent sunset review of
8 Malleable Pipe Fittings From Brazil, Japan, Korea, Thailand
9 and Taiwan.

10 It should also be recognized that domestic
11 producer Ward specifically states on its website that it is
12 dedicated to selling malleable products only to wholesalers
13 and not retailers. In this context, I note that
14 overwhelmingly the majority of B&K's sales of subject
15 imports occur in the retail market.

16 In addition, the growth of B&K's imports of
17 subject merchandise over the period of investigation have
18 likewise been concentrated in the retail market. We believe
19 that this is true for most imports of Chinese malleable pipe
20 fittings. Therefore, to the extent that the volume of
21 subject imports has grown in recent years, such growth has
22 generally been limited to the retail market.

23 I also point out that as the retail market has
24 grown, the wholesale market has declined. One of the
25 primary reasons for this decline of wholesale market sales

1 is increased competition from substitutable products and in
2 particular flexible tubing products. In this context, the
3 Commission should recognize that Petitioner Ward is one of
4 largest suppliers of flexible tubing for gas in the U.S.
5 Ward's flexible tubing product line is primarily sold under
6 the trade name Ward Flex.

7 Flexible tubing is a direct substitute for
8 malleable fittings. Therefore, sales of flexible tubing
9 will result in a direct loss of sales of malleable products.
10 Ward itself is, therefore, partly to blame for the company's
11 declining sales of malleable fittings.

12 Furthermore, demand for flexible tubing is
13 expected to continue to grow while the market for malleable
14 pipe fittings is considered mature. As stated by Ward's
15 president and CEO in year 2000, Ward's sales of Ward Flex
16 products were growing at an annual percent of 35 to 40
17 percent annually. Ward's president also noted that Ward
18 Flex sales contributed significantly to Ward's financial
19 performance.

20 I also note that the adverse impact of increased
21 sales of flexible tubing products for gas and water is
22 largely confined to the wholesale malleable fitting market,
23 those substitutable products being flexible tubing for gas,
24 PVCs, CPVC plastic tubing and fittings and also PECS fitting
25 and tubing. Flexible tubing for gas systems are

1 significantly more expensive than standard iron pipe
2 systems, and manufacturers of these flexible tubing systems
3 often require installers of these systems to be certified by
4 the manufacturers themselves.

5 Another important condition of competition over
6 the period of investigation was a name change of domestic
7 producer Grinnell Supply Sales and Manufacturing to Supply
8 Sales and then to Anvil, a name change which occurred over a
9 relatively brief period of time.

10 The Grinnell name was long regarded in the
11 industry as being associated with high quality product
12 purchasers were willing to pay a price premium for.
13 However, the Grinnell name change to Supply Sales and
14 subsequently to Anvil, in our view, created a destruction in
15 the domestic malleable fitting market. This in turn caused
16 customers to reassess the relationship with their suppliers
17 of malleable iron fittings.

18 During this same period, the purchase of B&K
19 Industries by Mueller Industries had the opposite effect.
20 Mueller Industries, a U.S. manufacturer of copper tubing and
21 copper fittings, has long been recognized and associated
22 with quality in the plumbing industry since the early 1900s.
23 The Mueller name, therefore, raised the profile of B&K
24 products and thereby added value to B&K's product line.
25 Accordingly, B&K sales of all products, including malleable

1 iron pipe fittings, increased as a result of B&K's
2 association with Mueller and the use of the Mueller logo on
3 the fittings.

4 We believe that subject malleable fittings are not
5 a commodity product. Brand name has substantial value in
6 our product. B&K's sale of malleable pipe fittings also
7 increased as a result of B&K's ability to offer its
8 purchasers a broad line of product beyond which domestic
9 industry is able to offer. In addition to malleable iron
10 pipe fittings, B&K offers its customers over 11 major
11 plumbing category products, which include brass valves,
12 plastic valves, copper fittings and tubing, yellow brass
13 fittings and nipples, faucets, red brass fittings and
14 nipples, plastic DWV fittings, plastic pressure fittings and
15 other plumbing specialty items.

16 Large retailers in particular are increasingly
17 turning to single source suppliers as a way to control
18 inventory, reduce warehouse costs. In addition, single
19 sourcing makes it easier for purchasers to meet freight
20 minimums.

21 Given the foregoing, we believe it is evident that
22 several factors other than subject imports largely explain
23 any sales or market share loss by Anvil or Ward over the
24 period of investigation. We, therefore, respectively
25 request that you include in your staff report in this

1 investigation each of the points I have raised today.

2 Thank you for the opportunity to appear here
3 today. I would be happy to answer any questions you may
4 have.

5 MR. SMIRNOW: Thank you, Mr. Tripp.

6 As Mr. Tripp has discussed, the single most
7 important condition of competition in the U.S. market is the
8 segmented nature, the retail versus wholesale distinction;
9 in addition, in this context, the domestic industry's focus
10 on the wholesale market and some may say neglect of the
11 retail market.

12 Although subject imports do in fact participate in
13 the wholesale market, subject imports are overwhelmingly
14 concentrated in the retail market. The retail market is
15 where we believe over the period of investigation growth has
16 occurred, so the wholesale market could be considered
17 mature, declining, but the retail market is a growing
18 market.

19 Mr. Tripp briefly discussed the role Ward Flex
20 products have played in contributing to decreased demand for
21 malleable fittings in the wholesale market. I would further
22 observe that Anvil may also be contributing to declining
23 malleable fittings demand through the company's agreement
24 earlier this year to purchase Beck Manufacturing.
25 Importantly, Beck produces steel, PVC and aluminum fittings

1 for the wholesale plumbing and electrical markets. As Mr.
2 Tripp noted, PVC in particular directly competes with and
3 displaces sales of malleable fittings.

4 I would also briefly note that the Ward Flex
5 product, although a much higher cost product than malleable
6 fittings, by using Ward Flex piping systems or flexible
7 piping systems the end result is that consumers save a lot
8 of money because of the labor involved. To install the
9 malleable fittings there are high labor rates, plumbing, \$80
10 to \$100 an hour. It takes a lot longer to put those systems
11 into place, whereas the flexible tubing systems can be done
12 in a significantly shorter amount of time. Their estimate
13 is that cost savings range from 40 to 70 percent overall by
14 using flexible tubing systems.

15 I would next like to address a few volume related
16 issues. First, I would ask the Commission to rely upon only
17 reported import volume data and, therefore, not utilize any
18 estimates or projections that have been put forth by the
19 domestic industry.

20 Next, we believe non-subject imports do in fact
21 play an important role, an increasingly important role, in
22 the U.S. fittings market. We also believe that non-subject
23 imports partly explain any loss of market share or volume by
24 the domestic industry.

25 Finally, with respect to volume, I would ask that

1 the Commission consider whether there have been changes in
2 domestic industry production capacity during the POI. If
3 so, the Commission should consider the timing of such
4 changes in relation to the timing of the increase in the
5 volume of subject imports. I think there could be an
6 interesting story there.

7 I would now like to address price where I have
8 three important points I'd like to raise. First, our data
9 indicates that prices for subject imports were either
10 unchanged or in fact increased over the period of
11 investigation. As you are aware, the Commission rarely, if
12 ever, finds injury when prices for the subject imports are
13 either static or increasing.

14 Second, we agree that subject imports are priced
15 well below the domestic like product. However, this is not
16 new information. The Commission observed this in the recent
17 sunset review.

18 Prices in the retail market have traditionally
19 been well below prices in the wholesale market. Rather than
20 serve as evidence of underselling, as the domestic producers
21 would like you to believe, the large price differentials
22 between subject imports and the domestic like product are
23 further evidence of the retail/wholesale segmentation as we
24 have discussed.

25 With respect to my third pricing issue, we request

1 that the Commission break out AUVs for non-subject imports
2 on a country by country basis rather than utilizing the
3 basket methodology that the domestic industry has put forth.
4 We will further elaborate on the relevance of this point in
5 our post-conference submission.

6 Turning to impact, it does appear that the
7 domestic industry's performance has declined in recent
8 years. However, the cause of this impact is not
9 attributable to subject imports. Rather, the domestic
10 industry has ceded both volume and market share to competing
11 products sold in the wholesale market.

12 Much of the domestic industry elected long ago not
13 to participate in the retail market. As the retail market
14 has grown and the wholesale market has declined, their
15 business decision a long time ago to focus on the wholesale
16 market is another cause of their injury.

17 Given this business decision, domestic producers
18 should not now be allowed to blame increasing sales of
19 subject imports in the growing retail market for declining
20 sales in the mature wholesale market. We also agree that
21 some Chinese imports are penetrating the wholesale market.
22 However, the overwhelming majority of imports remain
23 concentrated in the retail market.

24 In addition, the retail market has in some small
25 amount drawn away from the wholesale market, but again the

1 growth is overwhelmingly concentrated in end uses. In fact,
2 Home Depot has created new uses for the consumer, and
3 increasingly consumers are turning to Home Depot to install
4 new parts in their homes and replacement parts, so we think
5 the focus and the growth in the retail market is on end use
6 and not tied to commercial purchases.

7 Those are the points I have right now. I now turn
8 to Kathleen Murphy. Thank you.

9 MS. MURPHY: I had not planned to say anything
10 today. I do not practice before the Commission. I've never
11 handled an antidumping case. However, I would be derelict
12 in my representation of Mueller Industries, which is a
13 longstanding client of this firm, if I did not give sort of
14 a two minute briefing on U.S. Customs law. I am a U.S.
15 Customs attorney. I've been practicing in that realm for 17
16 years.

17 I also know quite a bit about the Federal Trade
18 Commission's Made in USA representation, and I can with a
19 high degree of certainty, Mr. Van Toai, in terms of the
20 fitting you saw at Home Depot with the Mueller logo, a high
21 likelihood that yes, indeed, that was my client's product.

22 I can also tell you with a high degree of
23 certainty that that designation alone, Mueller, does not
24 invoke any prohibitions or violations of the U.S. Customs
25 marking law, nor does it raise any problem under the Federal

1 Trade Commission's marking principles related to Made in
2 USA, nor does it cause a violation of the LANAMAC.

3 The representations, statements and I'm going to
4 say allegations made this morning by Petitioner I found
5 quite disturbing. There are very serious civil and criminal
6 penalties that go hand-in-hand for representing an imported
7 item as being a U.S. made good, and I can tell you with a
8 high degree of confidence and certainty that that is not
9 what's going on in this case, so I simply wanted to add that
10 little tidbit.

11 Again, I've never practiced before the Commission,
12 and I'm really here just to support a very important firm
13 client. Thank you.

14 MR. FEATHERSTONE: Thank you all for your
15 testimony.

16 Mr. Cassise?

17 MR. CASSISE: Good morning to the panel, Mr.
18 Smirnow, Ms. Murphy. One just clarification.

19 Mr. Smirnow, you were listing some of your
20 concerns, and you stated that you wanted us to use, and I
21 missed part of this, reported imports only and no
22 projections supplied by --

23 MR. SMIRNOW: Yes. I'd like the Commission to
24 focus on Census data. It appears that in the Petitioners'
25 brief that some of the numbers they reported are projected

1 numbers.

2 MR. CASSISE: Okay. Okay. So for the record, you
3 have no problem with the Commission staff using official
4 Commerce statistics to represent imports?

5 MR. SMIRNOW: No. No, but I would say that of the
6 three harmonized tariff subheadings, there is one that
7 represents the large majority of imports. I believe that is
8 subheading .60

9 MR. CASSISE: Okay.

10 MR. SMIRNOW: So certainly of the three, that one
11 will, we believe, be most instructive.

12 MR. CASSISE: Okay. I suppose we should probably
13 delve a little further into the market segmentation, which
14 was the issue that I discussed with the Petitioners this
15 morning and seems to be an argument that you find credence
16 in as well.

17 Mr. Tripp, do you find any credence in the
18 argument that the wholesale and the retail markets are
19 beginning to blur with the Home Depots creating these
20 contractor distribution centers? Is this what you find?

21 MR. TRIPP: I'm not in sales or marketing, but,
22 you know, I believe that those lines are still pretty clear
23 between those markets. Home Depot does try to market to the
24 contractor. What their sales are, percentage of sales or
25 what other mass merchant sales are to contractors, I

1 wouldn't know what that number is by percentage.

2 MR. CASSISE: Well, it seems to me that, I mean,
3 your argument is that these are very segmented markets, that
4 the U.S. producers have relied almost exclusively on the
5 wholesale market while ceding the retail market to imports.

6 Now, to maybe speculate a little bit, you could
7 use some of your points to say well, this retail market is
8 growing. You could use part of their argument saying that
9 the lines are blurring, which results in that the U.S.
10 producers, if they had ceded this market earlier, now they
11 want a portion of this market.

12 Do you believe that this is a fair description of
13 what's happening, or do you still believe that they are
14 completely segmented and that the retail market will always
15 be an import dominated segment?

16 MR. SMIRNOW: As I stated, certainly through our
17 discussions we believe that some of the Chinese imports are
18 entering the wholesale market, and the retail market has in
19 some measure drawn sales away from the wholesale market.
20 However, the overwhelming majority of sales in the retail
21 market and the growth in sales in the retail market is not
22 related to the wholesale market.

23 While there is some movement towards that today,
24 overwhelming retail sales to the end users and the growth in
25 imports are concentrated in the retail market to those end

1 uses that traditionally were sales that did not take place
2 in the wholesale market.

3 MR. CASSISE: So the volume increase in Chinese
4 imports are this increase or this growth in the retail
5 market from such stores as Home Depot and Loews?

6 MR. SMIRNOW: That's our belief that
7 overwhelmingly the increase in the volume of imports from
8 China go to the retailers, the large retailers as their
9 markets grow and as they continue to expand.

10 MR. CASSISE: One thing that Mr. Tripp was
11 discussing was that it was his belief that this isn't a true
12 commodity product, that there is some brand awareness. What
13 services besides a name stamped on the side of a fitting
14 create this brand awareness, or is it just a quality
15 reputation?

16 MR. TRIPP: I believe it's a quality reputation.
17 Like I mentioned, Mueller Industries has been in the
18 plumbing industry since the early 1900s. B&K has been a
19 plumbing importer of high quality product for over 30 years.
20 We take high value in our brand names and utilizing our
21 logos on our product.

22 In addition to marketing just the product with the
23 logo to retail, the complete package needs to be sold to
24 retail, including the displays, the cartons, the product,
25 the bar code. When you look at it at Home Depot or Loews or

1 Ace or TruServe or any other retailer, it becomes a consumer
2 packaged good. It's not a commodity at that point at the
3 retail level.

4 MR. SMIRNOW: I would note that some of the points
5 raised earlier on the Customs issues by the domestic
6 industry in fact suggest that there is a premium of some
7 sort for brand name, well-known product. That would suggest
8 that brand name products, the value of that name alone, is
9 important.

10 MR. TRIPP: Mueller stands by the quality of its
11 products.

12 MR. CASSISE: Okay. In the form of warranties?

13 MR. TRIPP: Correct.

14 MR. CASSISE: What about if a contractor wanted to
15 use a Mueller product? Would that be warrantied or
16 warranted?

17 MR. TRIPP: Correct. We stand 100 percent behind
18 all of the products we sell.

19 MR. CASSISE: Which brings me to just quality
20 issues, the difference between Chinese products and U.S.
21 product. Are there perceived quality differences, or, as
22 the Petitioners had mentioned this morning, are those
23 quality distinctions that may have existed earlier now gone?

24 MR. TRIPP: I'm not aware. I'm not as experienced
25 in the industry as the Petitioners are. I've only been in

1 the industry for about 10 years. As far as importing
2 malleable fittings, since B&K has been importing malleable
3 fittings the quality has remained consistent. Our fittings
4 have always and still do meet the ASTM and the ASME
5 standard.

6 MR. SMIRNOW: During the testimony today we were
7 discussing the quality of the Chinese product. The
8 Commission should recognize that although there are a lot of
9 producers of subject malleable pipe fittings in China, there
10 are very few that make the high quality product.

11 B&K has been importing from China for over six
12 years, and they consider that product to be of equal quality
13 to the U.S. product. However, there could be a large and
14 there is a large volume of import coming in of a lower
15 product, a lower quality product. Again, those are
16 concentrated in the retail market.

17 MR. TRIPP: Further to that subject, B&K only buys
18 from one manufacturer in China who we feel is the best
19 quality manufacturer. We have to date not found a
20 manufacturer of equal quality.

21 MR. CASSISE: The only other question that I have,
22 and this is for the post-conference brief, and that is, as
23 you all know, we don't have a Chinese producer represented
24 here at the conference. Any information that you could
25 supply us on the Chinese home market would be very helpful

1 just to flush out the record.

2 That being said, I have no further questions.

3 Thank you all very much.

4 MR. FEATHERSTONE: Mr. Rees?

5 MR. REES: Thank you. Thank you for your
6 testimony.

7 Following up on a couple questions that Mr.
8 Cassise had on this segmentation issue which we've heard
9 much about and which we understand we'll hear much about in
10 the written submissions after the conference, Mr. Tripp, is
11 it your sense that the market has changed at all since the
12 sunset review came out in February of 2000?

13 Has the market changed at all since 2000, or is
14 your position that there is a segmentation, there always has
15 been and there is today and continues to be? Has there been
16 any change since the sunset?

17 MR. TRIPP: You know, we believe that there is
18 market segmentation. B&K is primarily focused on the retail
19 market. Eighty-six percent of our sales of malleable
20 fittings go to the retail market. You know, as far as how
21 clear those lines are, I'm not familiar personally enough
22 with that. I think we would have to provide that in the
23 post-hearing submission.

24 MR. REES: Okay. Mr. Tripp or Mr. Smirnow,
25 working from the position you're advocating that there is

1 this distinction between the retail and the wholesale
2 market, how would you respond to an argument that the
3 domestics want to be in the retail market and that allegedly
4 dumped imports from China are keeping them from getting into
5 that market?

6 MR. SMIRNOW: Yes. I would say yes, that's the
7 case, but that's a business decision that the domestic
8 industry made a long time ago. We're going to focus on the
9 wholesale market. We're not going to focus on the retail
10 market. Accepting that the markets are segmented, they are
11 two separate markets. Therefore, you have separate
12 conditions of competition.

13 We do agree that there has been some small change,
14 and there is some overlap between the two markets now. Home
15 Depot has created some contractor business, but the
16 overwhelming majority of the business Home Depot has created
17 did not draw market share away from the wholesale market.
18 Competing products are attacking the wholesale market --
19 Ward Flex, PVC.

20 The domestic industry sees that. That's why
21 they're making investments in Ward Flex. That's why Anvil
22 at the beginning of this year, during a time where they are
23 allegedly materially injured by reason of subject imports,
24 is making these long-term investments in other competing
25 products.

1 MR. REES: So is it your position then that it's
2 essentially voluntary? This is a business decision that the
3 domestics have made?

4 MR. SMIRNOW: Yes. I would say now --

5 MR. REES: A voluntary decision that they want to
6 focus in one area of the market, that the segmentation does
7 exist as you're arguing and have pointed out, and that these
8 are essentially business decisions that aren't impacted by
9 the role of the import market?

10 MR. SMIRNOW: They're impacted now to the extent
11 that they now want to get into the retail market. Say Ward
12 decides okay, we focused on the wholesale. We see growth in
13 the retail. We want to enter the retail market. Now, is
14 domestic industry being prevented from gaining access to
15 another market? Is that a source of injury? I don't
16 believe it is. I believe at best that would be considered
17 indirect.

18 Have they lost sales because of subject imports?
19 To some small degree they have, but, more importantly, the
20 imports are focused in the retail market, and the domestic
21 industry is now prevented from accessing the retail market.
22 Is that a direct correlation to material injury by
23 increasing imports over the period of investigation? I
24 would say no. They're not entitled to growing sales in the
25 retail market.

1 MR. REES: Okay. We'd appreciate any further
2 commentary on this potentially very important issue in the
3 investigation.

4 Following up on another matter that Mr. Cassise
5 raised, this issue of quality, I'd like to know whether you
6 agree with the Petitioners' contention in their petition
7 that the quality of China's product has improved, and any
8 market advantage based on perceived quality distinctions has
9 essentially disappeared.

10 MR. TRIPP: Regarding B&K's imports of malleable
11 fittings, our quality has remained consistent and has and
12 still meets the standards that were mentioned by the
13 Petitioners.

14 Over the years, we have not found another
15 manufacturer that can provide B&K product that meets our
16 quality standards. Yes, there may be other manufacturers in
17 China that can meet the ASTM standard for material and
18 dimensions, but we haven't found manufacturers that can meet
19 our requirements.

20 MR. REES: I appreciate it is B&K that's here, so
21 essentially as I understand it your view is that there may
22 well be perceived quality differences insofar as the rest of
23 the industry is related but that with respect to the product
24 you know and you work on --

25 MR. TRIPP: I've been to several manufacturers in

1 China over the last three or four years, and there are
2 definitely quality differences in the malleable iron
3 fittings being manufacturers.

4 It may be in the material. It may be in the
5 machining quality. It may be in the angularity of the
6 fittings. When I say angularity, I mean when you screw the
7 pipe into an elbow does the pipe extend from the elbow at 90
8 degrees, or is it at 85 degrees? When it goes into a union
9 or a coupling, does it come out at a straight line?

10 We have not found a manufacturer that would meet
11 our standards regarding that, but, like I said, there are
12 manufacturers that will meet the ASTM/ASME standard.

13 MR. REES: Mr. Smirnow, how would you describe the
14 like product in the U.S. industry here?

15 MR. SMIRNOW: We support the domestic industry's
16 definition in these proceedings.

17 MR. REES: You don't raise any issue regarding
18 grooved product or non-malleable or anything else?

19 MR. SMIRNOW: No.

20 MR. REES: Okay. What's your response to
21 Petitioners' claim that dumping orders on malleable fittings
22 in other countries make the U.S. market the focal point for
23 imports from China?

24 MR. SMIRNOW: Even if you accept that the U.S. is
25 the focal point for imports from China, those imports have

1 been and will continue to be concentrated in the retail
2 segment of the market.

3 MR. REES: Okay.

4 MR. SMIRNOW: Even if China has excess capacity,
5 the focus is going to be on the retail market.

6 MR. REES: The argument was made this morning that
7 the Order respecting non-malleable pipe fittings may cause a
8 redirection of Chinese production to malleable fittings.
9 How do you respond to that?

10 MR. SMIRNOW: Again, any increase would again be
11 focused largely on the retail market.

1 MR. REES: Okay. I have nothing further.

2 MR. LEVY: Joshua Levy, Office of Economics. I
3 guess my first question would kind of follow up on some of
4 the quality issues that Mark and I guess Chris were talking
5 about.

6 To the best of your knowledge, as far as your
7 customers are concerned, is it sufficient that you simply
8 meet the ASTM ratings, or are some of the quality
9 differences that you, Mr. Tripp, mentioned, are those
10 significant differences that would cause them not to
11 purchase the product? I'm not just referring to B&K
12 products, but also other Chinese imports.

13 MR. TRIPP: I'm sure there are other Chinese
14 imports where the quality may be different enough where it

1 can change a decision for the purchaser if they were to buy
2 that fitting or not, if that answers your question.

3 MR. LEVY: Okay. I guess another question that
4 kind of goes to some of the earlier discussion about market
5 segmentation. Could you tell us a little bit more about the
6 end use customers of the wholesalers versus the retailers,
7 kind of the differences between the customers that the
8 wholesalers would be selling versus the retailers?

9 MR. TRIPP: The retailers are selling, and what
10 percentage it is I don't know, but the majority of your mass
11 merchants are selling to -- the majority of their customers
12 are end users, consumers like ourselves. I'm sure there's a
13 percentage that is going to contractors. What percentage
14 that is, I don't know. I don't even know if the retailers
15 capture that information.

16 The difference in use of the subject fittings, the
17 use would probably be the same for residential plumbing use
18 if it's for water or gas. For competing products such as
19 PECS or Ward Flex or other flexible tubing for gas systems,
20 they usually require a certification or an investment in
21 tools that take those products out of the consumers'
22 purchase.

23 Other competing products such as CPVC pipe, PVC
24 pipe, copper tubing, those are as readily available to the
25 consumer at the retail level.

1 MR. LEVY: Okay. For the wholesalers' customers,
2 would they typically sell to contractors? Do they sell to
3 large, you know, industrial jobs?

4 MR. TRIPP: I believe that wholesalers sell mostly
5 to contractors. They'll also bid out large construction
6 jobs directly. Some wholesalers are open to the public. I
7 would say a very small percentage of their sales go to the
8 public, to the end user.

9 MR. LEVY: Let's see. Again kind of hitting on
10 some of the issues that were talked about before, but are
11 there other non-price differences, you know, besides quality
12 such as differences in lead times or service that would
13 really differentiate the imported Chinese product and the
14 U.S. product?

15 MR. TRIPP: Regarding our sales to our customers,
16 all of our customers, if our service -- service is very
17 important to our customers, be it wholesale or retail,
18 especially at the retail level. They expect very fast lead
19 times, ship 100 percent, and also along with that service
20 is, you know, multiple product line shipping on the same
21 shipment, lower freight rates, lower inventory carrying
22 costs for the customer, lower minimums.

23 You know, we will ship 11 different product lines
24 to our major customers for \$500 to prepay their freight
25 rather than a customer having to buy \$500 of only malleable

1 fittings to prepay their freight. Other importers of
2 subject malleable fittings also sell multiple product lines
3 and take advantage of those I guess you would call them
4 economies of scale for the customer to buy multiple product
5 lines.

6 MR. LEVY: To the best that you know, do the U.S.
7 producers also sell these multiple product lines? That's
8 probably a question to them.

9 MR. TRIPP: Domestic producers I believe do have
10 other product lines. You know, they mentioned grooved
11 fittings and malleable fittings. I don't believe it's as
12 wide of a breadth of product line as we have.

13 MR. LEVY: Okay. A question that I asked or at
14 least part of a question to the domestic producers. Are
15 there types or sizes of the malleable pipe fittings that you
16 would sell of the imported Chinese product that the domestic
17 producers do not sell?

18 MR. TRIPP: Not that I believe. Not in the U.S.
19 market. There are fittings that we do export to other
20 countries that are not offered in the U.S. We will ship
21 product from China to other countries that are distinctly
22 different.

23 MR. LEVY: A similar question. Are there U.S.
24 produced fittings that they sell, you know, types or sizes,
25 that you do not sell, or do you pretty much mirror the

1 product lines?

2 MR. TRIPP: We try to stick mainly to the
3 residential market, meaning we do not go over sizes four
4 inch in diameter.

5 The domestic market I believe tends to go up to
6 eight, 10, 12. I'm not sure where they stop, but there are,
7 I believe, quite a few -- what percentage I don't know; it
8 could be five, 10 percent -- more products that they offer
9 just because of the size difference.

10 MR. LEVY: Okay. My last question is just to the
11 extent that you can either now or in a post-conference
12 brief, if you could estimate the share of the U.S. malleable
13 pipe fitting market that's covered by Buy American
14 restrictions?

15 MR. SMIRNOW: We'll attempt to do that in our
16 post-hearing submission. I'm not sure the extent to which
17 we'll be able to address that. Certainly Buy American is a
18 factor. In addition, there is also a perception, as again
19 was raised this morning, that people seek out American
20 products. Some consumers will just seek out an American
21 product.

22 MR. LEVY: Okay. Thank you. Those are all the
23 questions I have.

24 MR. FEATHERSTONE: Mr. Van Toai?

25 MR. VAN TOAI: Norman Van Toai from the Office of

1 Industries. Thank you for coming. I have some quick
2 questions here.

3 Number one is that, Mr. Tripp, you've been in
4 China for three to five years as I understand. You have
5 visited quite a few Chinese facilities making pipe fittings.

6 MR. TRIPP: Correct.

7 MR. VAN TOAI: What do you think about the quality
8 of their machines and equipment, the age, the generation of
9 the machines and equipment there, where they come from? Are
10 they domestically made? Are they imported from overseas?

11 MR. TRIPP: The types of machines will vary from
12 factory to factory. The factory that we purchase from uses
13 machines made in Japan, Korea, Taiwan. I'm sure that they
14 may even use some domestic machines, but most of the
15 machines they would use for high precision tooling or
16 machining, I believe they would import those machines from
17 other countries.

18 There are, like I said, other manufacturers that
19 will use very old, very primitive all the way up to very
20 highly sophisticated theismatic testing machines. There's a
21 whole spectrum.

22 MR. VAN TOAI: What are the key exporting markets
23 for the Chinese products in pipe fittings? Do the Chinese
24 mainly export to local Asian markets?

25 MR. TRIPP: The factory we purchase from, I do not

1 believe they sell to the local Chinese market. I believe
2 their sales are primarily the largest percentage to the
3 U.S., the Middle East, eastern European countries. I
4 believe they ship to the entire -- all over.

5 MR. VAN TOAI: If that's the case, then they have
6 to comply with a variety of standards, engineering standards
7 in different countries. If you export them to the U.K., you
8 have to follow the British standard.

9 MR. TRIPP: Correct.

10 MR. VAN TOAI: To the American, to the Japanese
11 standard, to the ASTM here and to the European standard.
12 Have any of them qualified for the ISO standard?

13 MR. TRIPP: Our factory is ISO-9002 certified by I
14 believe DBQI out of Switzerland. You know, that's a quality
15 standard that helps them ensure consistent quality and
16 recording of their quality.

17 MR. VAN TOAI: And how do they manage the variety
18 of requirements from different standards like that?

19 MR. TRIPP: Our factory has invested in knowledge.
20 They have engineers, college graduates, very sophisticated
21 personnel and equipment to meet those standards. Like you
22 said, there's a lot of standards across the world -- the SPS
23 standards, the EN standards, the ASTM standards.

24 MR. VAN TOAI: Yes.

25 MR. TRIPP: They manufacture for all those

1 markets, and they meet those standards.

2 MR. VAN TOAI: You mentioned that the maximum size
3 that the Chinese export to the U.S. market is around four
4 percent of the residential area and between eight to 12
5 inches for the larger size. What is the maximum size that
6 the Chinese export to the U.S.?

7 MR. TRIPP: I can only comment on what we import.
8 We only import fittings up to four inch in diameter. If
9 they're manufacturing larger diameters, we are not
10 purchasing them. I think that might be a question for some
11 other importers.

12 MR. VAN TOAI: Okay.

13 MR. TRIPP: Possibly we can get that information
14 for you in the post-hearing submission.

15 MR. VAN TOAI: Thank you. Thank you very much.
16 That's all I have.

17 MR. TRIPP: You're welcome.

18 MR. FEATHERSTONE: Mr. Deyman?

19 MR. DEYMAN: George Deyman, Office of
20 Investigations. You mentioned earlier that you do agree
21 that if the Commission uses official import statistics for
22 the imports from China that's fine with you.

23 MR. SMIRNOW: Yes.

24 MR. DEYMAN: You also mentioned, though, that
25 there was one statistical reporting number ending in .60

1 under which most of the imports are coming.

2 MR. SMIRNOW: I believe that is correct.

3 MR. DEYMAN: The threaded number.

4 MR. SMIRNOW: Yes.

5 MR. DEYMAN: I just want to make sure. Under
6 subheading 73071990 we would include all the imports under
7 that subheading except for the grooved end fittings which
8 come under Statistical Reporting No. .40.

9 MR. SMIRNOW: Okay.

10 MR. DEYMAN: Do you agree with that?

11 MR. SMIRNOW: Yes. Yes. I would point out,
12 though, that it's important on the price side when you're
13 comparing the volume to price to again break out the non-
14 subject imports to get the AUVs that are tied to specific
15 countries. There are large disparities there.

16 MR. DEYMAN: Okay. With regard to then the
17 official Commerce import statistics, as I asked earlier of
18 the other side, imports have increased fairly substantially
19 in the first eight months of 2002, whereas they didn't
20 increase all that much really between 1999 and 2001. What
21 has caused the increase in 2002?

22 MR. SMIRNOW: We believe that as the retail market
23 has grown, and again let's get back to Home Depot or Loews.
24 Think of over the past couple years the growth in the number
25 of Home Depot and Loews stores. Also when you go to Home

1 Depot, think of the amount of merchandise they have on site.

2 The imports have grown to service the growth in
3 the retail market; also to service the inventories that Home
4 Depot has to fill their stores. Our ability to supply these
5 stores -- we are an inventory importer. We bring
6 merchandise in to inventory. Home Depot calls us, and we
7 ship it out the next day. As there are more stores for Home
8 Depot, for Loews, for other hardwares, it's increasingly
9 important to increase the volume, which is accelerated
10 towards the end of the period of investigation as the volume
11 and the number of these stores has grown.

12 MR. DEYMAN: All right. You mentioned the
13 flexible tubing product which is making inroads. How long
14 has that been around?

15 MR. TRIPP: I'm not familiar with how long it's
16 been around. I believe it's been more than two or three
17 years, I believe.

18 MR. DEYMAN: Certainly not just this past year?
19 It's been around for several years?

20 MR. TRIPP: No. No.

21 MR. DEYMAN: Pretty much throughout the period of
22 investigation that we're looking at?

23 MR. TRIPP: I believe so.

24 MR. DEYMAN: And is that a retail or a wholesale
25 product?

1 MR. TRIPP: It's a wholesale product. The
2 flexible tubing system is used for gas products. I know for
3 a fact for the Ward Flex that Ward manufactures, just from
4 the information from their website, they require the
5 installers to be certified by Ward themselves to install
6 that product, so that's strictly focused on the wholesale/
7 commercial application.

8 MR. DEYMAN: All right. I have no further
9 questions.

10 I would like to announce that we have the
11 Administrative Protective Order material here, so if Mr.
12 Schagrín and Ms. Murphy and Mr. Smirnow, you could come up
13 after the conference is over and sign for it?

14 MR. SMIRNOW: Sure.

15 MR. DEYMAN: We'll give it to you. Thank you.

16 MR. FEATHERSTONE: This condition of the pricing
17 in the retail market being lower than that in the wholesale
18 market strikes me as somewhat an unusual situation. Is this
19 a longstanding pattern here?

20 MR. SMIRNOW: Absolutely. Absolutely.

21 MR. FEATHERSTONE: Why would that be?

22 MR. SMIRNOW: Because traditionally in the retail
23 market it started that it was considered to be a lower
24 quality product, so all lower quality imports -- Brazil,
25 Thailand, what were perceived to be lower quality imports --

1 went into the retail market so those were the prices set
2 many years ago.

3 Now, as the economy has turned down you can
4 imagine the difficulty of going to Home Depot and saying,
5 you know, you paid \$1,400 a ton last year. Our product is a
6 higher quality product. We need to get a price premium for
7 that.

8 There are market factors that were established,
9 and those were the dynamics that set the price in the retail
10 market. That's been long established.

11 MR. FEATHERSTONE: Thank you. Thank you again for
12 your testimony and answers to the questions.

13 MR. SMIRNOW: Thank you.

14 MR. FEATHERSTONE: Mr. Schagrin, would you like a
15 break? Five minutes? We'll take a five minute break and
16 then resume the conference for closing statements.

17 (Whereupon, a short recess was taken.)

18 MR. FEATHERSTONE: Can we resume the conference
19 please.

20 Welcome back, Mr. Schagrin.

21 MR. SCHAGRIN: Thank you again. Good afternoon,
22 Mr. Featherstone, members of the Commission staff. Again,
23 Roger Schagrin giving the rebuttal for the petitioners.

24 To summarize, the only respondent who has appeared
25 today in opposition to the petition's arguments, it seems to

1 go as follows. They would like the Commission not to focus
2 on any of the record, don't focus on the increase in
3 imports, don't focus on the injury to the domestic industry.

4 Instead, they would like to throw up a smoke
5 screen of 10 different conditions of competition that they
6 think ought to keep the Commission from focusing on the
7 record of the case, and obviously we think that that would
8 be incorrect.

9 Conditions of competition are important, it's part
10 of the statute, but we have to remember we can't lose the
11 forest for the trees.

12 But their biggest problem is the conditions of
13 competition in this industry have been changing. And what
14 they want to rely on is findings in a sunset review of now
15 two and a half years ago that essentially said that the
16 domestic industry focused primarily on the wholesale market
17 and the import focused primarily on the retail market.

18 They then go on to make the assumption if we sell
19 most of our Chinese products in the retail market, there
20 can't be any injury to the domestic industry. Let me tell
21 you for three reasons why their analysis is completely
22 wrong.

23 First, the Commission should find, because it is
24 the appropriate factual finding, that the lines between the
25 wholesale and retail markets have blurred. Now, that was

1 the testimony of a gentleman here who has 21 wholesale
2 supply outlets in the Washington, D.C. area. And he says
3 that he is competing with Home Depot all the time for his
4 contractor customers.

5 Now, contrast that with the ruminatings of an
6 attorney, by the way one who is very good and who used to be
7 on the Commission staff, and someone who admitted that --
8 their witness said I'm not involved in marketing. His title
9 is he's the director of global sourcing. I wanted to ask if
10 B&K has any director of domestic sourcing, but I presume the
11 answer to that his no. Most companies in this country don't
12 have any domestic sourcing focus anymore. They all focus on
13 let's buy it in China, we'll make more money that way.

14 But this Commission, the reason you hold
15 conferences is to hear testimony, and you heard testimony
16 from people who were in the marketplace from someone who is
17 the chairman and CEO of wholesale supply houses, from Cass
18 Marketing who is out there in the marketplace as a marketing
19 company.

20 I venture to guess that besides looking at the
21 data that you will gather, that you need to give credibility
22 to the witnesses who appear before this Commission and their
23 experience and their expertise.

24 Now, I'm not sure that B&K is representative of
25 even the import community. Now, they said that they focus

1 on the retail market. I think the gentleman said something
2 in the 80 percent range is their focus. I have no reason to
3 dispute that. I'm sure he testified appropriately. But we
4 believe there is some other very, very major importers who
5 weren't here today. What's odd is that they were here in
6 the non-malleable hearing.

7 But Smith Cooper and Matco Norka are certainly,
8 from our client's belief, among the largest importers of
9 production from China. Now, we believe that these companies
10 in fact focus on the wholesale market; that Smith Cooper and
11 Matco Norka have these big supply houses, much like Anvil
12 supply houses, and that they are focusing on the wholesale
13 market.

14 So we also think the Commission has to in some way
15 focus on the numbers, of course, which you will be
16 gathering. We hope these other importers participate. We
17 haven't seen the APO release yet. But you have to also look
18 at the context of the testimony and take it in its context.
19 Is B&K really representative of all imports from China.

20 Now, finally, I would say on this issue of market
21 segmentation, first, it's blurred; second, we have got a lot
22 of sales of imports in the wholesale market; but third, it
23 doesn't keep the Commission from focusing on injury and
24 causation, and let me give you a hypothetical.

25 Yes, Ward has admitted they don't focus on the

1 retail market. Anvil says they have always had a big focus
2 on the retail market. They even bought another brand to put
3 more focus on the retail market.

4 But let's say hypothetically that for Anvil sales
5 they are 80 percent wholesale and 20 percent retail. Now,
6 does the Commission say, well, because more than 50 percent
7 is in the wholesale, we don't have to look at injury and
8 causation? Anvil focuses its competition on the wholesale
9 market.

10 Now, of course not. What if Anvil loses 75
11 percent of that 20 percent of business, and loses only 10
12 percent of the 80 percent? They have now lost a total of 25
13 percent of their business, but because they have lost 15 out
14 of 20 percent of their business that used to go to retail.
15 That's real injury, and that is what's happening to Anvil.

16 They have gotten their clocks cleaned in a market
17 that was a very major portion of their business; not the
18 biggest portion, but certainly significant. And the loss of
19 that market, almost the total loss of that market has had
20 serious effect on the production, shipments, employment,
21 profitability. And I think you will see there is some
22 differentiation between the two members of the domestic
23 industry.

24 Now, I also heard the respondent say today let us
25 give you some market analysis. This market is being eaten

1 up by competing products. Ward is eating some of it. Other
2 competing products are eating up others. And I heard them
3 to say that means demand for this product is decreasing.

4 Now, what's wrong with the picture if you even
5 accept their arguments as correct? Other alternative
6 products are eating the malleable pipe fitting market.

7 What's the response of importer of product from
8 China? We will import 50 percent more into a smaller
9 market. That probably wouldn't injure the domestic
10 industry, right?

11 So that argument doesn't help them in terms of
12 explaining what's happening in the domestic industry. It
13 doesn't in any way continuant the huge increase in imports
14 which are underselling.

15 The multiple product line issue really is not an
16 issue in this case. Yes, B&K, part of Mueller has a
17 multiple production line. Anvil also has it through their
18 supply houses. Ward, which doesn't have it, uses agent like
19 Cass Marketing and Cass Marketing provides to Ward because
20 Cass marketing markets Ward product and then all of these
21 other products from other manufacturers that give Cass
22 Marketing a broad product line and helps them sell Ward
23 product.

24 The other three issues, trying to explain problems
25 on domestic supply, hold no water. The change of name from

1 Grinnell to Anvil didn't have an impact on Anvil sales.
2 Anvil's putting their two product lines together didn't
3 cause any problems with service. They stored up some
4 inventory. They have been able to serve everybody, and
5 finally their purchase of Beck has nothing to do with the
6 malleable pipe fitting market at all.

7 Let me turn to price and quality issues. I heard
8 the argument from B&K, well, when Mueller bought us, that
9 really helped us because now we can put the Mueller brand
10 label on our Chinese import fittings, and that Mueller label
11 means a lot.

12 Well, if it means so much why do they have to
13 price it 30 to 50 percent less than domestic?

14 The fact is they are selling on the basis of
15 price, not on the basis of the Mueller label, and we would
16 think the Anvil and Ward labels have meaning as well. But
17 the bottom line here is they said, well, you know, quality
18 is still an issue here. Of course, B&K says their quality
19 is excellent.

20 Mr. Smirnow says I'm pretty sure that other people
21 have quality problems, and the Commission needs to focus on
22 that. And you know, the Commission found before the retail
23 market doesn't really care about quality.

24 Well, I would say, first of all, that's baloney
25 because the contractors buying at Home Depot have to get the

1 same product for the same use as everybody else, and for
2 that matter, so does the do-it-yourselfer at home. You want
3 to buy this product, take it home, and have your gas leak or
4 your water leak? Of course not. So quality is governed by
5 ASTM standards.

6 And if Mr. Smirnow makes the comment that, oh, our
7 quality is fine, but you know, you've got to discount this
8 underselling of other imports because they have lower
9 quality, I'm going to be interested in seeing the affidavits
10 he supplies in his post-conference brief from other
11 importers like Smith Cooper and Matco Norka saying we want
12 the Commission to know we are importing the lousy quality
13 fittings, because it's not going to happen. And as he
14 continues to practice before the Commission, I am sure he is
15 going to find don't speculate if you can't back it up. So
16 back it up in the post-conference or don't make up other
17 contingents of competition for a Commission to base a
18 negative determination on because the Commission needs
19 substantial evidence to support its decision.

20 Finally, let me just address threat. B&K said we
21 only have one supplier from China. They also said we
22 increased our imports because we are selling more to the
23 retail market.

24 I don't know what kind of foreign producer
25 questionnaires you can get here. I am sure you will get

1 theirs because they only -- they are a party to this case
2 and they say they only buy from one supplier.

3 But I think you can assume that if they are able
4 to get a lot more imports from their one supplier, that the
5 same would apply for everybody else. They will get more
6 imports from their suppliers.

7 And as to the threat issues from the antidumping
8 orders and the shift from non-malleable, Mr. Smirnow
9 answered your question about that, and said, look, it
10 doesn't matter if there is more imports into the U.S.
11 market, if they are shipping less to Europe, Brazil, Mexico,
12 they are not going to make non-malleable anymore and they
13 are going to make malleable and ship those here. It doesn't
14 matter because it's all going to go to retail.

15 Now, first of all, you look at probably the
16 redirection. The retail market is only so big. Maybe it's
17 25, 30, 40 percent of the market. At some point, and that
18 point has long ago been reached, you get such a massive
19 amount of Chinese fittings they take all the market. And do
20 we expect -- is it the Chinese who are going to decide what
21 markets they are going to invade? Is it the importers like
22 B&K or Smith Cooper?

23 The fact is it's all of them. The Chinese just
24 want to sell fitting. They are not going to sit back in
25 China one day and say, wow, we have redirected everything to

1 our other export markets. We have redirected our non-
2 malleable. But we're going to stop now, we're satiated. We
3 ate the retail market. We don't also want to eat the
4 wholesale market. The Chinese want to eat all the markets.
5 That's why we are here in China case after China case. The
6 Chines want to eat all the markets.

7 Why are they eating this market? Why are they
8 eating the domestic industry's lunch? Because they are
9 pricing the exact same quality product that meets the same
10 ASTM specification, that are being sold to the sale groups
11 of users, the retail and wholesale markets, and they are
12 selling it at 30 to 50 percent less.

13 The evidence is going to be clear. It's going to
14 require unanimous affirmative determination because the
15 injury and the causation is so strong in this case.

16 Thank you very much

17 MR. FEATHERSTONE: Thank you, Mr. Schagrin.

18 Welcome back, Mr. Smirnow.

19 MR. SMIRNOW: Thank you, Mr. Featherstone.

20 I just want to start off by saying every statement
21 we made here today is based upon our understanding of the
22 U.S. malleable pipe fittings market. I therefore take great
23 issue with Mr. Schagrin's allegation that I am making up
24 facts.

25 We have provided our understanding of the U.S.

1 market. Indeed, I recall Mr. Schagrin being asked for data
2 to back up his statement regarding Chinese capacity, and he
3 said, "It's based on our understanding of the U.S. market."

4 I would also say I don't necessarily need law of
5 practicing advice from Uncle Roger.

6 The Commission should focus on volume. The
7 Commission should focus on injury. The volume of imports
8 increased over the period of investigation, the volume trend
9 accelerated towards the end of the period. The domestic
10 industry appears to be injured. Their condition appears to
11 have declined.

12 Focus on price. We ask that you focus on price.
13 Prices for the Chinese subject imports based on the Commerce
14 census data are generally either static or increased over
15 the period of investigation.

16 But most importantly, focus on causation. We
17 agree that conditions have changed somewhat. The wholesale
18 market is declining. The retail market is growing. Most of
19 the growth in the retail market has been Home Depot
20 targeting end users, consumers. We agree that some small
21 portion of the growth in the retail market has taken away
22 wholesale market sales. But much more importantly wholesale
23 market is declining by competing products.

24 Ward Flex forecasting 34 to 40 percent growth in
25 their product. I would be curious to see how much of Ward

1 Flex sales of that product contribute to their performance.

2 Getting back to wholesale and retail. Wholesale
3 is the mature end use market under increased competition
4 from competing products. The growth in retail, particularly
5 from China, even if you accept that some small portion of
6 the retail went to wholesale, overwhelmingly it goes to the
7 end user.

8 Finally, Mr. Tripp is not in marketing. He is
9 director of global purchasing. B&K does in fact have a
10 marketing expert. His name is Peter Burgman. He is the
11 president of the company. He is currently in Hong Kong, and
12 that's why he was not able to appear here today. I will
13 make sure that he reviewed the transcript in this
14 investigation and address many of the conditions of
15 competent questions with respect to marketing and market
16 segmentation raised by each of you today.

17 Thank you very much for your attention; appreciate
18 it.

19 MR. FEATHERSTONE: Thank you.

20 Just a couple of quick administrative reminders;
21 that the deadline for the submission of corrections to the
22 transcript and briefs on this investigation is next Monday,
23 November 25th. If briefs contain business proprietary
24 information, a non-proprietary version is due the following
25 day.

1 The Commission is scheduled to vote on this
2 investigation for December 13th at two p.m., and it will
3 report its determination to the Secretary of Commerce the
4 following Monday, December 16th. Commissioners' opinions
5 will be transmitted to Commerce and placed in the public
6 record a week later, on December 23rd.

7 Thank you again for your participation. The
8 conference is adjourned.

9 (Whereupon, at 12:55 p.m., the conference on the
10 above-entitled matter was adjourned.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Malleable Iron Pipe Fittings
INVESTIGATION NO.: 731-TA-1021 (Preliminary)
HEARING DATE: November 20, 2002
LOCATION: Washington, D.C
NATURE OF HEARING: Preliminary Conference

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: 11/20/02

SIGNED: LaShonne Robinson
Signature of the Contractor or the
Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Carlos Gamez
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

SIGNED: Theodore Fambro
Signature of Court Reporter